

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH, MUMBAI**

**BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT &  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No. 6587/Mum/2018  
(Assessment Years: 2012-13)**

Meghaertz Systems Pvt Ltd 251/253, T Ardeo Court, Near Bhatia hospital, Mumbai – 400007	<b>बनाम/ Vs.</b>	DCIT, Circle – 5(2)(2) 571, Aayakar Bhavan, Mumbai.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACDM8203F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri Nimesh Chothani, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri Ravindra Mishra, Sr. DR

सुनवाई की तारीख / Date of Hearing	09/12/2020
घोषणा की तारीख/Date of Pronouncement	15/12/2020

**आदेश / ORDER**

**PER PAVAN KUMAR GADALE - JM:**

The assessee has filed an appeal against the order of Commissioner of Income Tax (Appeals) -10, Mumbai, passed u/s. 143(3) and 250 of the Income Tax Act, 1961. The assessee has raised the following grounds of appeal:

“1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the action of the A.O is adding an amount of Rs. 1,36,350/- towards franking charges and Rs. 7,21,406/- towards processing charges and registration fees without appreciating the fact the same were incurred towards money borrowed for business purpose.

2. On the facts and circumstances of the case in law, the CIT(A) erred in confirming the additions of the A.O of Rs. 60,375/-, being trade payables, on account of creation of liability u/s 41(1).

3. On the facts and circumstances of the case and in law, the CIT(A) erred in adding an amount of Rs. 13,15,592/- being trade payables, as unexplained credit without appreciating the fact that the liability to pay for the same has not yet been absolved.

4. On the facts and circumstances of the case and in law, the CIT(A) erred in adding an amount of Rs. 1,58,447/- without issuing show cause notice to the assessee.

2. The brief facts of the case are that, the assessee company is engaged in the business of dealing in computers and computer related parts and filed the return of income electronically on 29.09.2012 for the A.Y 2012-13 with total income of Rs. 48, 68,630/-.The return of income was processed u/s 143(1) of the Act. Subsequently, the case was selected for scrutiny and notice u/s 143(2) and 142(1) of the Act along with

questioner were issued. In compliance the Ld. AR appeared from time to time and the case was discussed. On perusal of the financial statements, the Assessing officer found that the assessee has debited interest on TDS to profit and loss account. Since there are no explanations of the assessee on the issue, the A.O made the addition. Similarly, the A.O made addition of difference in stock of Rs6,800/- as no explanation or reconciliation was filed by the assessee. Further the A.O made addition of statutory liabilities in the nature of duties and taxes of Rs. 12,513/- u/sec 43B of the Act. Similarly, the addition of cash credit was made in respect of cash deposits of Rs.7 lakhs in the Union Bank of India, Tardeo Branch Mumbai as the assessee has failed to explain the sources of deposits. Further the A.O find that an amount of Rs.3,77,050/- was claimed in the profit and loss account towards the franking charges and disallowed the claim being in the nature of capital expenditure. The A.O. also treated processing charges and registration charges of Rs. 8, 31,076/- as capital expenditure and made an addition. The A.O made addition of Rs. 11,57,145/- in respect of

cessation of liability U/sec41(1) of the Act, which are outstanding for longer period and the A.O assumed that it is no longer necessary for assessee to make the payment. The A.O. also observed that the assessee has failed to reconcile the difference in unsecured loans and made an addition of Rs24,28,684/- and assessed the total income of Rs.1,03,87,560/- and passed the u/s 143(3) of the Act dated 27.03.2015.

3. Aggrieved by the order the Assessee filed an appeal with the CIT(A), whereas the LdCIT(A) has considered the grounds of appeal, findings of the A.O and submissions of the assesses and has confirmed the addition in respect of cessation of liability u/s 41(1) of the Act Rs. 11,57,145/-and enhanced the addition. An amount of Rs. 3,59,000/- in respect of franking charges and Citi Bank fees paid was allowed as deduction and the remaining processing and registration charges to the extent of Rs.8,57,756/- was sustained. The LdCIT(A) granted the partial relief in respect of other disallowances and partly allowed the appeal of the assessee. Aggrieved by the order, the assessee has filed an appeal with the ITAT.

4. At the time of hearing, the Ld. AR of the assessee submitted that the CIT(A) has erred in confirming the addition of Rs. 1,36,350/- towards the franking charges and Rs. 7,21,406/- towards processing and registration charges as they are wholly incurred for the purpose of business. The CIT(A) erred in enhancing and confirming the addition of cessation of liabilities u/s 41(1) of the Act Rs. 13,15,592/- as the trade liabilities payable by the assessee exist from the earlier years and are disclosed in the financial statements. The LdAR submitted that the assessee has submitted all the details to substantiate the case and prayed for allowing the appeal.

5. Contra, the Ld. DR relied on the orders of the CIT(A).

6. We heard rival submissions and perused the material on record. We find the contentions of the ld. AR are that the trade liabilities are carried forwarded in the books of accounts from the earlier years and the assessee is liable for payment to the Creditors and substantiated with the details. We find the assessee has not written off the liabilities as no longer required

in the books of account. Further on perusal of assessment order, we find that the A.O. has neither recorded satisfaction for making disallowance or made enquires on trade creditors nor supported with any evidence that the trade liabilities are no longer payable by the Assessee. Accordingly, we set aside the order of the CIT(A) on this disputed issue and direct the Assessing officer to delete the addition.

7. Whereas, In respect of franking, processing and registration charges, the LdAR has substantiated his arguments with the details in the paper book at page 1 to 27 along with registration charges and sanction letters of the banks substantiating that the said amount are revenue expenditure. We considering the facts and the material find that these details are to be verified and examined. Accordingly, we remit this disputed issue to the file of the Assessing officer for limited purpose for verification. The assessee should be provided with adequate opportunity of hearing and shall cooperate in submitting the information and allow the grounds of appeal for statistical purpose

8. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 15.12.2020

Sd/-

(PRAMOD KUMAR)  
VICE PRESIDENT

Sd/-

(PAVAN KUMAR GADALE )  
JUDICIAL MEMBER

Mumbai, Dated 15/12/2020

KRK, PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Mumbai