

**IN THE INCOME TAX APPELLATE TRIBUNAL GAUHATI BENCH: GUWAHATI
“VIRTUAL HEARING” AT KOLKATA**

[Before Shri A. T. Varkey, JM]

**I.T.A. No. 64/Gau/2020
Assessment Year: 2016-17**

Gautam Deka (PAN: AIWPD 6493 Q)	Vs.	ITO, Ward-1, Nagaon
Appellant		Respondent

Date of Hearing (Virtual)	13.01.2021
Date of Pronouncement	15.01.2021
For the Appellant	Shri S.P. Bhati, FCA
For the Respondent	Shri Arup Chatterjee, Addl. CIT Sr. DR

ORDER

This is an appeal preferred by the assessee against the orders of Ld. CIT(A)-Guwahati-1, dated 14.01.2020 for A.Y. 2016-17.

2. The sole ground the assessee is against the action of Ld. CIT(A) in confirming the addition of Rs. 17,57,341/- u/s 68 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”).

3. Brief facts as noted by the AO is that the assessee has filed return of income showing total income of Rs. 14,25,310/-. The case was selected for limited scrutiny through CASS and the reason for scrutiny selection was *whether the cash in hand shown in return of income is correct*. According to AO, the tax consultant of assessee appeared before him and furnished the month wise total sales- cash & credit and total cash received from the debtors along with cash book for FY 2015-16 (AY 2016-17). Thereafter, the AO notes that on perusal of the total sales, it was seen that total sale shown was at Rs.3,29,71,270/- but total sale as per trading account of the audited

accounts at Rs.2,91,86,347/-. According to AO, during the course of hearing, the A/R of the assessee was asked to explain the difference. And in reply, the A/R of the assessee explained that in the audited account, the sale was at net sale after adjustment of VAT. So, the A/R of the assessee was asked by AO to produce the details of VAT. According to AO, on perusal of the detail, it was seen that as per cash flow statement submitted, the cash received from the debtors during the financial year 2015-16 (assessment year 2016-17) was shown at Rs.69,92,779/-. But AO noted that as per details submitted, the total credit sale was at Rs.57,02,455/- and opening balance of sundry debtors was nil and closing balance at Rs.4,67,017/-. Thus according to AO, there is the difference in amount of Rs. 17,57,341/-. Therefore, the AO asked the Ld. A.R to explain as to why the difference amount of Rs. 17,57,341/- should not be treated as suppression of sales and as a result should not be treated as income from other sources. According to AO, the A/R of the assessee failed to explain the difference and offered the same for taxation. Therefore, an amount of Rs. 17,57,341/- was added back to the total income of the assessee u/s 68 of the Act.

4. Aggrieved the assessee preferred an appeal before the Ld. CIT(A) who was pleased to dismiss the same. Aggrieved the assessee is before me.

5. After hearing both the parties it is noted that the main grievance of the assessee is that when the AO asked the assessee to produce the cash flow statement, though it filed the cash flow statement, there was a mistake which crept into the cash flow statement, which led to the misunderstanding and led to the addition of Rs. 17,57,341/-. However, during the appellate proceedings, this mistake was corrected/reconciled; and reconciliation was filed before the Ld. CIT(A) which has been reproduced by the Ld. CIT(A) at page 5,6 & 7 of the impugned order. However, according to Ld. CIT(A), the reconciliation was an afterthought and therefore he did not admit the reconciliation and was pleased to confirm the action of the AO. The Ld. A.R of the assessee Shri S. P. Bhati assailing the action of the AO and the Ld. CIT(A) submitted that the assessee is a dealer of washing machine, fridge, UPS etc. According to Ld. A.R, the assessee's accounts are duly audited and when the AO asked the cash

flow statement, the assessee had filed the cash flow statement before the AO but it had some mistakes. In this context it was pointed out by the Ld. A.R that the accounts are correct i.e. cash books, ledger etc are correct. However, due to wrong classification of certain entries by the accountant, result given by cash flow statement got wrong. According to the Ld AR some of the sales which has been shown in the *cash sales* has been mistakenly shown under head *credit sales*. Likewise, some of the accounts of the debtors has been classified as sundry creditors. Realizing this mistake, the assessee corrected the cash flow statement earlier filed before the AO and filed the reconciliation summary during the appellate proceedings which has been reproduced by the Ld. CIT(A) at page 7 of the impugned order. The Ld. A.R drew my attention to original cash flow statement summary filed before the AO which is reproduced at page 5 of the impugned order and the reconciliation summary at page 7 of the Ld. CIT(A) order. According to Ld. A.R., the AO before making addition should have gone through the cash sales figures which can be seen to be less in cash flow statement, but more in total sales statement and drew my attention to page 5 of Ld. CIT(A)'s order. According to him, the figures mentioned in cash flow is Rs. 2,52,99,009.87 and if the difference as added by AO i.e. Rs. 17,57,341/- and difference of sundry creditors i.e. Rs. 2,12,464.61 is added to Rs. 2,52,99,009.87 it will tally with the figures Rs. 2,72,68,815.48 as shown in the sales statement. Thus, according to Ld. A.R, there is no difference but only mistake in creating the accounts in the software tally. Further according to Ld. A.R, the books of accounts are audited and the AO has gone through the books of account as well as cash book and since no defect could be pointed out, the addition was not warranted in the light of reconciliation. According to Ld. A.R, from the reconciliation summary filed by the assessee before the Ld. CIT(A) [Page 7 of Ld. CIT(A)], the following facts can be noted:

Total receipts from Sundry Debtors	69,92,779.00
Total Cash Sales	2,52,99,009.87
Outstanding Debtors as at 31.03.16 (as per assessment order)	4,67,017.00
Received from Debtors (Wrongly included in Sundry Creditors)	2,12,464.61
Total sales including VAT as per Sales Statement	3,29,71,270.48

Thus the total receipts from the sundry debtors is to the tune of Rs. 69,92,779.00 and total cash sales was to the tune of Rs 2,52,99,009.87 and the outstanding debtors as on 31.03.2016 (as per assessment order) is at Rs 4,67,017.00. And the amount received from Debtors (*wrongly included in sundry creditors*) was at Rs 2,12,464.61 and total Sales including VAT as per Sales Statement is to the tune of Rs 3,29,71,270.48. Thus, according to Ld. A.R, there is no difference. According to him, if there is any difference the trial balance and balance sheet will not tally, which is not the case here, and therefore pleaded that addition was not warranted. Per-Contra, the Ld Sr DR, Shri Arup Chaterjee contesting the submission of Ld AR submitted that during the assessment proceedings the assessee failed to re-concile the differences pointed out in the cash flow statement and therefore Ld CIT(A) rightly observed that filing of reconciliation summary before him, was nothing but an afterthought and rightly did not admit it and thereafter confirmed the action of AO, which does not require any interference from my side.

6. The facts narrated above are not repeated for the sake of brevity. Let the facts submitted (*supra*) be as it may be. From a perusal of the impugned order it is noted that the Ld. CIT(A) did not go through the correctness of reconciliation summary filed by the assessee and has simply termed it as an afterthought and has confirmed the decision of the AO, which action of the Ld. CIT(A) cannot be countenanced. It is noted that pursuant to the AO's direction, the assessee had filed the cash flow statement which Ld. CIT(A) reproduced at page 5 of his impugned order. According to the assessee, though the accounts were maintained correctly in tally system, however due to wrong classification of the entries made by the accountant while entering the same certain mix-up happened like *sale in cash* were wrongly classified under the *credit sales* etc. Realizing this mistake which crept in to the cash flow statement filed at the assessment stage, the assessee at the first appellate proceedings has filed reconciliation of the cash flow statement which has been reproduced by the Ld. CIT(A) at page 7 of his order. Rather than examining the correctness of reconciliation statement filed by the assessee, the Ld. CIT(A) has erred in confirming the action of AO and that too without even calling for a remand report from the AO. From the records, it is evident that the assessee's aforesaid submission and reconciliation is

before the authorities below. In this background, in the interest of justice, I set aside the order of Ld. CIT(A) and remand the matter back to the file of AO. with a direction to verify the reconciliation statement/summary and submissions made by the assessee in this respect and in the event it is found to be correct after due verification, then no addition on this issue is warranted. And in case if the reconciliation filed by the assessee is defective to frame the assessment on this issue in accordance with law after giving opportunity of hearing to assessee.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 15th January, 2021.

Sd/-

(A. T. Varkey)
Judicial Member

Dated: 15th January, 2021.

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Gautam Deka, Nagaon, M/s G. N. Electronics, Phulugari, Raha, Nagaon, Assam-782103.
2. Respondent- ITO, Ward-1, Nagaon
3. The CIT(A)- Guwahati
4. CIT- , Guwahati
5. DR, Gauhati Bench, Guwahati

True Copy

By Order

Sr. Private Secretary
ITAT, Kolkata Benches, Kolkata