

**IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI  
'E-COURT' AT KOLKATA**

**Before Shri Sanjay Garg, Judicial Member**

**I.T.A. No.356/Ran/2017**  
Assessment Year: 2008-09

**Razual Rahman.....Appellant**  
**C/o CA Nawal Kishore Mahato,**  
**Flat No.401, 4<sup>th</sup> Floor,**  
**K.C. Apartment,**  
**137, Ambagan Road,**  
**Sakchi, Jamshedpur,**  
**PIN-831001.**  
**[PAN:AGVPR2426E]**

**vs.**

**ITO, Ward-2(4), Jamshedpur.....Respondent**

**Appearances by:**

None appeared on behalf of the appellant.

Smt. Chinmaya Aurangabadkar, JCIT, DR, appeared on behalf of the Respondent.

Date of concluding the hearing :March 25, 2021

Date of pronouncing the order : April 30, 2021

**ORDER**

The present appeal has been preferred by the assessee against the order dated 10.10.2017 of the Commissioner of Income Tax (Appeals), Jamshedpur [hereinafter as 'CIT(A)']. The assessee in this appeal has taken the following grounds of appeal:

*"01. The learned AO and the honourable CIT(A) erred in treating the Sundry Debtor position of the Assessee for the F.Y: 2007-08. On submission of bills by the Assessee, the Assessee treated the same as Sundry Debtors but the same bills have been accounted for by the respective parties in the financial year 2008-09. This is due to the reason that the bills have been received by the respective parties after closure of Accounts of Financial Year 2007-08. During those days there was no internet facility and bills were sent during last week of F. Y : 2007-08 by postal service.*

*02. As the parties have received bills in F.Y:2008-09, they have credited Assessee and Deducted Tax on each amount which are being reflected in Form 16A of respective parties in the F. Y: 2008-09. Therefore, the same is not reflecting in the books of accounts of the respective parties during financial year 2007-08.*

*03. To judge the genuinity, reconciliation of the Debtors position of Assessee could have been done by the Learned AO as well as CIT(A) as the Tax Deduction Certificate of the all the Debtors were enclosed. Rather than doing this the Learned AO and the CIT(A) has made the addition whimsically.*

04. Sundry Debtors is the balance of Credit Sale at the end of the year. As per Mercantile System of Accounting, total turnover of an Assessee includes Cash Sales and Credit Sales During the F.Y: 2007-08 relevant to A.Y: 2008-09, the Assessee made a turnover of Rs. 57,12,849/- (Rupees fifty seven lakhs twelve thousand eight hundred forty nine) only. Out of which payment of Rs. 42,52,394/- (Rupees forty two lakhs fity two thousand three hundred ninety four) only has already been received during the year and the balance amounting to Rs. 14,60,455/- (Rupees fourteen lakhs Sixty thousand four hundred fifty five) only is receivable by the Assessee as on the last day of the Financial Year: 2007-08. The same is appearing as closing balance of Sundry Debtors on the last day of the financial year. Confirmation of such balances with respective party is a matter of reconciliation between the Assessee and the respective parties.

05 Out of Credit Sale amounting to Rs.14,60,455/-, a sum of Rs.1,43,923/- has been recognized as credit sale by the Learned AO and the CIT(A). This is due to the reason that the party responded to the notice of Learned AO and confirmed that the closing balance with Assessee as Rs. 1,43,923/- Balance amounting to Rs. 13,16,532- has not been recognized as credit sale as the respective parties did not confirm the balances for the F.Y 2007-08. In such a case, turnover of Assessee should have been reduced accordingly as the Assessee has paid tax and filed Income-tax Return on the basis of total turnover amounting to Rs. 57,12,849/-

06. Assessee, Accounts for the transaction as per his own books of Accounts. On the basis of Gross turnover during the year, the Assessee has fled his return of income U/S 44AB of Income-tax, Act Considering the total turnover which includes Credit sales amounting to Rs. 14,50,450- (Rupees fourteen lakhs sixty thousand four hundred fifty five) only. Therefore, it is not justified to derecognize the above Credit Sales of Assessee. This would be violation of the principles of Indian Accounting Standard issued by the Institute of Chartered Accountants of India. If this is done, turnover the Assessee would have come down to Rs.43,96,317.00 (57,12,849.00 13,16,533.00) and should have been assessed on this turnover. Which has not been done in the case.

07. Details of Sundry Debtors alongwith proceeds received from the Debtors subsequently during the F.Y: 2008-09 i.e. next to the relevant Assessment Year is as follows:-

Sl. No.	Name of the Party	Balance as on 31/03/2008 (Rs.)	Received during 2008-09 (Rs.)	Balance Receivable as on 31/03/2009 (RS.)
01	Blue Star Ltd.,	3,79,500.00	1,67,970.00	2,11,530.00
02	Praxair India Pvt. Ltd.,	7,60,525.00	7,60,525.00	NIL
03	Neo Structo Construction Ltd.	3,20,430.00	3,00,525.00	19,905.00
		14,60,455.00	12,29,020.00	2,31,435.00

*The payment receipt shown is supported by Form No. 16A issued by the respective parties. Xerox copies of the same are enclosed herewith as Annexure I from Page No. 01 to 17.*

*The receivable balance as above may be received by the Assessee in subsequent year or may not. Accordingly necessary Accounting Entries are being passed by the Assessee.*

*Therefore, the addition made on this ground is absurd, whimsical and against the prudential norms of Accounting and hence the same may kindly be deleted in toto.*

*The following Gujarat High Court Case Law is relevant in the regard*

*2013] 32 taxman.com 161 Gujarat/2013 215 Taxman 444*

*Apart from the following Supreme Court Case Laws*

*GKN Driveshafts (India) Ltd Vs ITO (2003) 259 ITR 19 (2002) 125 Taxman 963 (SC. (Para-3)*

*Cadla Health Care Ltd Vs Asst CIT (Special Civil Application No 155 66 of 2011 dated 14-12-2011 (Para 5.11)*

*and*

*CIT Vs Kelvinator of India Ltd. (2010) 320 ITR 561/187 Taxman 312(SC) (Para 8)*

*The above case laws supports that responding U/S 147 of Income-tax Act, 1961 is null and void on the basis of above agra of Learned AO. The captioned addition is the consequent of re-opening U/S 147 of the Act.*

*Therefore, the same may be deleted in toto.*

*08. The Appellant craves leave to add amount, alter, vary and / or withdraw any or all the above Grounds of Appeal.”*

2. No one has put in appearance on behalf of the assessee despite service of notice. A separate application dated 11.03.2021 has been received under the signature of Shri Nawal Kishore Mahato, Authorised Representative of the assessee, wherein it has been requested that the appeal may be decided after perusal of records. Therefore, I proceed to adjudicate the grounds of appeal after hearing the ld. DR and after going through the records.

3. The grounds of appeal are relating to the addition made/confirmed by the lower authorities on account of difference in closing balance of sundry debtors amounting to Rs.13,16,532/-.

4. The Assessing Officer, during the assessment proceedings, noticed that the assessee had shown certain sundry debtors. The Assessing Officer called for confirmation from the concerned parties/sundry debtors exercising his powers u/s 133(6) of the Income Tax Act. Some of the sundry debtors confirmed the transactions. However,

there was a difference in the amount shown by them as payable to the assessee. The Assessing Officer noticed that the assessee had shown the sundry debtors at a higher amount as compared and confirmed by the sundry debtors at a lower amount. He has, therefore, added the difference in the sundry debtors into the income of the assessee holding that the assessee has shown bogus sundry debtors.

5. Being aggrieved by the said addition, the assessee preferred appeal before the CIT(A). Before the CIT(A), the assessee pleaded that the impugned additions made by the Assessing Officer were not justified. It was pleaded that the assessee follows mercantile system of accounting. The assessee has taken into account the entire turnover of sales i.e. of the amount actually received during the year as well as receivables which were shown as sundry debtors and, therefore, determined the net profit and paid due taxes. However, the Id. CIT(A) did not consider the above submission of the assessee and dismissed the appeal of the assessee.

6. Being aggrieved by the said order of the Id. CIT(A), the assessee has come in appeal before this Tribunal.

7. I have heard the Id. Departmental Representative, Smt. Chinmaya Aurangabadkar. Though, she has relied upon the findings of the lower authorities stating that the assessee has shown bogus sundry debtors, however, she has been fair enough to admit that the assessee has taken into account the sundry debtors also for the purpose of taking up of gross turnover and determining of net profit thereupon. Then, under the circumstances, no addition is warranted in this case irrespective of the fact that there is any difference in the balance of sundry debtors as compared to the books of the said sundry debtors. The assessee has also explained the difference stating that some of the sundry debtors have booked the sales payable to the assessee in the next assessment year when the invoices were received by them. The assessee has also produced Form 16 in this respect. Whatsoever may be the reason of difference of balances in respect of sundry debtors, the fact on the file is that the assessee has taken into account the sundry debtors for the purpose of taking of gross turnover, therefore, there is no avoidance of Income Tax . In

view of this, the addition made/confirmed by the lower authorities is not sustainable. The same is accordingly ordered to be deleted.

7. In the result, the appeal of the assessee stands allowed.

Order pronounced on 30.04.2021.

**Sd/-**  
**[Sanjay Garg]**  
**Judicial Member**

Dated: 30.04.2021.

*RS*

Copy of the order forwarded to:

1. The Appellant-
2. The Respondent-
3. The CIT concerned-
4. The CIT(A) -
5. The DR -
6. Guard File

BY ORDER

Sr. P.S., ITAT, Kolkata