

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'C' : NEW DELHI)**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
and
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

**ITA No.3750/Del./2017
(ASSESSMENT YEAR : 2014-15)**

M/s. Jindal Fibre,
E – 1, Industrial Area,
Panipat.

vs. ACIT, Circle,
Panipat.

(PAN : AADFJ7652A)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri S.B. Gupta, Advocate
REVENUE BY : Shri Kumar Padmapani Bora, Sr.DR

Date of Hearing : 08.12.2021
Date of Order : 10.12.2021

ORDER

PER ANIL CHATURVEDI, AM :

Aforesaid appeal has been filed by the assessee against the impugned order dated 24.04.2017 passed by the ld. CIT (A), Karnal for the quantum of assessment passed under section 143(3) of the Income-tax Act, 1961 (for short 'the Act') for the assessment year 2014-15.

2. In the grounds of appeal, following two grounds of appeals are challenged by the assessee :-

“1. That the order of the Learned CIT (Appeals) is against law & facts.

2. That the learned CIT (A) erred in not allowing the total amount of disallowance of interest charged Rs.10,14,147/- on the negative balance of the partners.

3. That the Learned CIT (A) erred in not deleting the additions of Rs.5,97,965/- made u/s 41(1) of the Income Tax Act.”

3. At the outset, ld. counsel for the assessee submitted that Ground No.2 i.e. disallowance of interest charged at Rs.10,14,147/- is not pressed. Accordingly, ground no.2 is dismissed as not pressed.

4. Insofar as the issue relating to addition of Rs.5,97,965/- made u/s 41(1) of the Act, during the course of assessment proceedings, AO observed that there were several creditors which were outstanding for more than three years. In response to show-cause notice, assessee submitted that it could not obtain confirmation details from these parties. The reply of the assessee, for the sake of ready reference, is as under :-

“Kindly refer to the assessment proceedings, the confirmations could not be obtained as the assessee had disputed with the said firms, as the assessee had no cordial relations as the goods send by them where no according to the order and these credit amounts are in dispute. We are compelling these parties for rebates of 10% to settle the accounts.”

5. However, ld. AO held that, since assessee itself has stated that it is negotiating with the parties for rebate to settle the accounts and therefore, to the extent of this offer of 10% rebate for settling the dispute, AO was of the view that it should be added back to the income of the assessee u/s 41(1) of the Act as cessation of liability.

Accordingly, addition of Rs.5,97,965/- was made. Ld. CIT (A) too has confirmed the said addition on the ground that assessee has not been able to discharge his onus regarding the amounts with these parties.

6. We have heard the rival submissions and also perused the findings given in the impugned orders. It is undisputed fact that the assessee had purchased goods from various parties and due to certain dispute, the amount of payment was not settled. This factum has not been disputed either in the assessment order or by the Id. CIT (A). Assessee had stated that, he is trying to negotiate with the creditors to give rebate of 10% in order to settle the accounts because as per the assessee the goods supplied by the parties were defective. It is not a case here that, these parties have acknowledged the rebate of 10% and the amount is still outstanding and shown as payable in the balance sheet of the assessee. Accordingly, it cannot be a case of cessation of liability as the assessee still acknowledges the amount payable to these parties. Under these circumstances, we find no reason to sustain any addition on hypothetical cessation of liability u/s 41(1) of the Act. Accordingly, the same is deleted.

7. Resultantly, the appeal filed by the assessee is partly allowed.

Order pronounced in open court on this 10th day of December, 2021.

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

**sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Dated the 10th day of December, 2021/TS

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Karnal.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.