

अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SHRI RAJPAL YADAV HON'BLE VICE PRESIDENT
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.313/Ind/2020
Assessment Year:2013-14**

ACIT 3(1) Bhopal	<u>बनाम/</u> Vs.	Shri Pramod Kumar, Prop- anmol Traders, Sehore, Bhopal
(Appellant)		(Respondent)
P.A. ANBPK1185G		

Revenue by	Shri Amit Soni, Sr.DR
Respondent by	Shri S.S. Deshpande, AR

Date of Hearing:	09.11.2021
Date of Pronouncement:	06.12.2021

आदेश / O R D E R

PER MANISH BORAD:

The above captioned appeal at the instance of Revenue is directed against the order of Ld. Commissioner of Income Tax(Appeals)-2, (in short 'CIT(A)'), Bhopal dated 24.09.2020 which is arising out of the order u/s 143(3) of the Income Tax Act 1961(In short the 'Act') dated 18.02.2016 framed by ACIT-3(1) Bhopal.

2. Brief facts of the case as culled out from the records are that the assessee is an individual running business of purchase and sale of Paddy under the sole proprietorship concern M/s Anmol Traders. Income of Rs. 20,46,650/- declared in the return of income file for A.Y. 2013-14 on 22.10.2013. Case selected for scrutiny followed by serving of notices u/s 143(2) & 142(1) of the Act. During the course of assessment proceedings Ld. AO examined sundry creditors and called for necessary information. Detailed reply was filed but Ld. AO was not satisfied with the explanation for the sundry creditors at Rs. 3,19,58,302/- and made the addition thereof u/s 68 of the Act. Ld. AO also disallowed interest expenditure of Rs.2,69,509/-. Income assessed at Rs. 3,42,74,460/-.

3. Aggrieved assessee preferred an appeal before the ld. CIT(A) and partly succeeded.

4. Now revenue is in appeal raising following sole ground:

On the facts and in the circumstances of the case, the ld. CIT(A) has erred in:-

1. Whether in the facts and in the circumstances of the case, the ld. CIT(A)-2, is justified in deleting the additions of Rs.3,19,58,302/- on account of trade creditors u/s 68 without examining the facts and finding of AO and relied upon various judgments.”

5. Ld. DR vehemently argued supporting the order of Ld. AO.

6. Per contra Ld. counsel for the assessee heavily relied on the finding of Ld. CIT(A) and also referred to the paper book dated 01.10.2021 containing 61 pages which also includes submission made before the Ld. CIT(A), copy of remand report and various other documents to support the genuineness, creditworthiness and identity of the sundry creditors.

7. We have heard rival contentions and perused the records placed before us. The revenue has challenged the finding of ld. CIT(A) deleting the addition for unexplained sundry creditors at Rs. 3,19,58,302/- for advance received from M/s. Vindhya Cereals Pvt. Ltd. We note that during the year under appeal assessee has claimed to have received trade advance for purchase of goods from M/s.Vindhya Cereals Pvt. Ltd. It is also claimed that goods have been supplied against the said receipts in subsequent year. We find that Ld. CIT(A) after considering the additional evidences filed by the assessee, remand report called from the Ld. AO, reply given by the assessee to the remand report and various other documentary evidences including the confirmation of the creditors, details of sale bills and transportation entry/exist and stock register, receipts of

warehouse and other related documents deleted the impugned addition observing as follows:

4.1 I have considered the assessment order, remand report and submission of the appellant and rejoinder on the remand report. The ld. AO has made addition of Rs. 3,19,58,302/ix] s 68 of the Act. The ld. AO found that the appellant had shown credit balance of Rs. 3,19,58,302/- against Vindhya Cereals Pvt. Ltd. During assessment proceeding, the appellant was asked to establish genuineness of the creditor. The appellant submitted confirmation letter before the ld. AO but failed to submit purchase / sale bills for, verification, transportation detail, stock register, receipts of warehouse where the material was kept etc. The ld. AO further observed that the appellant did not submit reason that why was 44% of turnover with the sundry creditor. The appellant received amount of Rs. 2,00,00,000/- on 25.03.2013 and Rs. 1,90,00,000/- on 28.03.2013. After receipt of the above amounts, the appellant advanced Rs. 2,60,00,000/- to Shakuntala Warehouse and Rs. 1,39,05,000/- to Bhojpur Kishan Seva Kendra. The ld. AO treated these transactions as accommodation entries. Since, the explanation was not satisfactory the ld. AO treated amount of Rs. 3,19,58,302/- as unexplained within the meaning of section 68 of the Act.

4.2 During the appellate proceeding, the appellant filed application u/r 46A for the acceptance of additional evidences and submitted that in the interest of justice the additional evidences may be admitted. The appellant furnished all the detail which could not be submitted before the AO and on the basis of which the addition was made. The appellant submitted copy of sale bills, relevant ledger accounts, copy of bank statement, ledger account and bank account etc. of F.Y. 2012-13 & 2013-14 etc. Such evidences are found vital for adjudication of the case and therefore, the same are admitted. The additional evidences along with submission of the appellant were forwarded to the AO for the remand report. The remand report was furnished in this office on 31.07.2018. Copy of the remand report was provided to the appellant for offering his comments. The appellant also submitted rejoinder on 23.08.2018. During remand report proceeding, the creditor M/ s Vindhya Cereals Pvt. Ltd. was asked to submit purchase vouchers, ledger, balance sheet and bank account statements for the F.Y. 2012-13 and 2013-14. Mis Vindhya Cereals Pvt. Ltd. furnished all the details except purchase vouchers stating that the same was not readily available with it. No finding on the issue of addition has been

given in the remand report and the AO has repeated the same facts what are written in the assessment order. In the rejoinder, the appellant has submitted that sale bills of the appellant are the purchase vouchers of Mis Vindhya Cereals Pvt. Ltd. Copies of sale bills have already been submitted in the appellate proceeding which had been forwarded to the AO for remand report. M/s Vindhya Cereals Pvt. Ltd. could not produce the purchase bills because the factory was closed and taken over by the bank and therefore, old records were disrupted. The advances given to Shakuntala Warehouse and Bhojpur Kisan Seva Kendra are the trade advances. There is no nexus between the above two parties and the creditor M/s Vindhya Cereals Pvt. Ltd. The advances were given through account payee cheques. In view of the submission made earlier and in the rejoinder, the appellant made request to decide the case on merit.

4.3 I find that the appellant is Prop. of M/s Anmol Traders who is engaged in the business of purchase and sales of paddy on commission basis. All purchases have been made directly from agriculturist at Krishi Upaj Mandi and the same has been sold to the whole seller. The books of account of the appellant are duly audited s/s 44AB of the Act. Creditor M/s Vindhya Cereals Pvt. Ltd. has made a total payment of Rs. 11,47,90,650/- to the appellant out of which it has purchased gram worth Rs. 8,27,82,388/leaving the credit balance of Rs. 3,19,58,302/-. Ld. AO has mainly doubted the receipt of advances of Rs. 2,00,00,000/- and Rs. 1,90,00,000/- on 25.03.2013 and 28.03.2013 by the appellant and advances of Rs. 2,60,00,000/- and Rs. 1,39,05,000/- given by the appellant. The ld. AO has treated such transaction as accommodation entries. Therefore, the credit balance has been treated as unexplained for the above reasons and some other reason also. I find that the confirmation letter from the creditor was furnished before the AO. In the remand report proceeding, M/s Vindhya Cereals Pvt. Ltd. complied with the notice of the AO and submitted various details. Thus, the identity of the creditor is proved. The bank account, ledger account of the appellant as well as the creditor were available with the AO in the remand report proceeding. All the transaction have been done through banking channels. The advances by the creditor and the appellant have been given in the interest of business. The appellant has supplied the goods to M/s Vindhya Cereals Pvt. Ltd. in the F.Y. 2013-14 against the advances given in F.Y. 2012-13. Therefore, the genuineness of transaction is proved. Further, M/s Vindhya Cereals Pvt. Ltd. has also maintained the books of account and filed its return of income on regular basis. It has sufficient financial capacity for

making such advances for business purposes. Thus, the creditworthiness of the creditor is undoubted. Either in the assessment proceedings or remand report proceeding, no cogent reason has been given for treating the transaction with M/ s Vindhya Cereals Pvt. Ltd. as non-genuine. The Ld. AO has never doubted the business transaction done by the appellant with M/ s Vindhya Cereals Pvt. Ltd. but did not accept the credit balance as genuine. Such act of the ld. AO is not justified. As discussed above, the appellant has proved the identity, genuineness of transaction and creditworthiness of the creditor by the submitting ample material. In the enquiry proceeding, the ld. AO did not bring any material to discredit the evidences furnished by the appellant. In the circumstances of the facts and law, the credit balance against M/ s Vindhya Cereals Pvt. Ltd. is found explained. Therefore, addition of Rs. 3,19,58,302/ - is hereby deleted. This ground of appeal is allowed.

8. From perusal of the above finding which remains uncontroverted at the end of Ld. DR, there is no dispute to the fact that M/s. Vindhya Cereals Pvt. Ltd gave trade advance to the assessee through banking channel and the assessee had supplied the goods to this concern during F.Y. 2013-14 i.e. A.Y. 2014-15. Necessary documents have also been filed to prove that M/s. Vindhya Cereals Pvt. Ltd. files regular return of income, maintains regular books of account and trade advance given by the alleged cash creditors to the assessee is for the business purpose. Under these given facts and circumstances of the case, we find no inconsistency in the finding of Ld. CIT(A) deleting the impugned addition. Sole ground raised by the revenue stands dismiss.

9. In the result, Appeal of the Revenue in ITANo.313/Ind/2020 is dismissed.

Order pronounced as per Rule 34 of I.T.A.T., Rules 1963 on ... 06.12.2021.

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Indore; दिनांक Dated : 06.12.2021

Patel/PS

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

Assistant Registrar, Indore