

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B": HYDERABAD
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 1945/H/2017 Assessment Years: 2013-14		
Vijay Kumar Agarwal, Hyderabad. PAN - ABAPA 0508L (Appellant)	Vs.	Asst. Commissioner of Income-tax, Circle - 5(1), Hyderabad. (Respondent)
Assessee by:		Shri K.A. Sai Prasad
Revenue by:		Shri Rohit Mujumdar
Date of hearing:		06/01/2022
Date of pronouncement:		10/01/2022

ORDER

PER L.P. SAHU, A.M.:

This appeal filed by the assessee is directed against CIT(A) - 4, Hyderabad's order dated 14/09/2017 for AY 2013-14 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act", on the following grounds of appeal:

- 1. The order u/s 250 passed by the learned Commissioner of Income Tax, Appeal, is not correct either on facts or in law and in both.*

2. The learned Commissioner of Income Tax (Appeals) has erred in confirming the addition of Rs. .52,22,750 made u/s.68 of the I.T. Act.

3. The appellant craves leave to add amend or alter any of the grounds at the time of hearing of appeal.”

2. Briefly the facts of the case are that the assessee an individual, a proprietor of M/s Sai Plywood and wholesale dealer in Ply woods, Laminates, Flush, Doors, Block Boards etc., filed his return of income for the AY 2013-14 on 30/09/2013 admitting total income of Rs. 1,07,19,910/-. Subsequently, the case was selected for scrutiny under CASS and accordingly, statutory notices were issued to the assessee, in response to which, the AR of the assessee filed the information.

2.1 During the course of scrutiny proceedings, the AO asked the assessee to produce the details of unsecured loans taken during the year, which were submitted by the ld. AR of the assessee along with confirmations and on perusal of the same, the AO found that PAN No. as well as address of one of the loaner companies namely Attractive Trade-Link Pvt. Ltd. was different in Audit report Form No. 3CD than in the confirmation & ITR submitted. When asked the assessee to produce the director of Attractive Trade-Link Pvt. Ltd., the assessee failed to do so.

2.2 Thereafter, the AO issued a commission u/s 131 to DDIT (Inv.), Unit - 4(1) Kolkata dated 01/03/2016 to verify the identity, creditworthiness and genuineness of the company along with all the transactions done with the assessee. The Commission submitted its report on 17/03/2016, wherein inter-alia stated that the company does not exist. The AO after examining the issue elaborately with case laws treated the amount of 52,22,750/- shown by the assessee as cash credit from the Attractive Trade Link pvt. Ltd., as cash credits u/s 68 and the added the same to the income of the assessee.

3. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A) and before the CIT(A) the assessee made elaborate submissions, which were extracted by the CIT(A) in his order at pages 5 to 11.

4. After considering the submissions of the assessee, the CIT(A) confirmed the order of the AO by observing as under:

5. Aggrieved by the order of CIT(A), the assessee is in appeal before the ITAT.

6. Before us, the Id. AR of the assessee submitted that though elaborate submissions made before the CIT(A), the

CIT(A) without considering the same, in cryptic matter, confirmed the order of the AO without addressing submissions made before him. Therefore, he requested that the matter may be remitted to CIT(A) for fresh adjudication.

7. The Id. DR, on the other hand, relied on the orders of revenue authorities.

8. We have considered the facts of the case and the request made by the learned AR. We find that the CIT(A) has confirmed the order of the AO without going into the facts of the case and without addressing the contentions of the assessee in his submissions. Therefore, to meet the ends of justice, we remit this matter back to the file of the CIT(A) with a direction to decide the issue afresh after considering the facts and contentions raised by the assessee before him. We are of the view that interest of justice will be served if Accordingly, the CIT(A) is directed to afford opportunity of being heard to the assessee and thereafter decide the appeal on merits. We direct the assessee to appear before CIT(A) with all the relevant evidences; at its own risk and responsibility to be followed by three effective opportunities of hearing.

9. In the result, appeal of the assessee is treated as allowed for statistical purposes in above terms.

Pronounced in the open court on 10th January, 2022.

**Sd/-
(S.S. GODARA)
JUDICIAL MEMBER**

**Sd/-
(L. P. SAHU)
ACCOUNTANT MEMBER**

Hyderabad, Dated: 10th January, 2022.

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Copy to :

1	<i>Vijay Kumar Agarwal, C/o Ch. Parthasarathy & Co., 1-1-298/2/B/3, 1st Floor, Sowbhagya Avenue, St. No. 1, Ashoknagar, Hyderabad – 500 020.</i>
2	<i>ACIT, Circle – 5(1), IT Towers, AC Guards, Masab Tank, Hyderabad.</i>
3	<i>CIT(A) -4, Hyderabad.</i>
4	<i>PR. CIT - 4, Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>