



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT  
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.217/LKW/2017  
Assessment Year: 2013-14

Shyam Sunder Gupta Prop. R. K. Agro Enterprises F-23, Shanti Nagar Kanpur	v.	The ACIT-I Kanpur
TAN/PAN:ACDPG9919P (Appellant)		(Respondent)

Appellant by:	Shri Rakesh Garg, Advocate		
Respondent by:	Smt. Sheela Chopra, CIT (DR)		
Date of hearing:	09	03	2022
Date of pronouncement:	28	03	2022

**ORDER**

**PER A.D. JAIN, V.P.:**

This is assessee's appeal against the order of the ld. CIT(A)-I, Kanpur, dated 13.1.2017, for the Assessment Year 2013-14, raising the following grounds of appeal:

- 1. Because the CIT(A) has failed to appreciate the facts and circumstances of the case, and has arbitrarily proceeded to decide the appeal holding that no submission/explanation was furnished, the order is bad in law and be quashed.*
- 2. Because the CIT(A) has failed to appreciate that the assessee was confined to bed and was not in a position to assist his counsel and get the necessary preparation done, the CIT(A) was not justified in holding that no*

*submissions had been advanced, upholding the additions and dismissing the appeal.*

- 3. Because the AO as well as the CIT(A) has erred on facts and in law in making and upholding the addition of Rs.15,12,27,815/- as unexplained credits being sundry creditors for want of details, which addition is contrary to facts, bad in law be deleted.*
- 4. Because the authorities below have failed to appreciate the fact and circumstances of the case and have erred on facts and in law in making and upholding the addition of Rs.15,12,27,815/- being fully explained, the addition is bad in law and be deleted.*
- 5. Because the books of account have not been rejected, purchases and sales have been accepted and the sundry creditors are out of purchases only, the authorities below have erred on facts and in law in making and upholding the addition of Rs.15,12,27,815/-, which addition is contrary to facts, bad in law and be deleted.*
- 6. Because the CIT(A) has failed to appreciate the facts and circumstances of the case and arbitrarily held that the amount of Rs.15,12,27,815/- has ceased to be a liability and is taxable, which finding is contrary to facts bad in law the additions made be deleted.*
- 7. Because in any case and in all circumstances of the case, the addition of Rs.15,12,27,815/-made by the AO and upheld by the CIT(A) is contrary to facts, bad in law and be deleted.*
- 8. Because on a proper consideration of facts and circumstances of the case, the authorities below have erred on facts and in law in making and upholding the disallowance of Rs.6,89,683/- being interest claimed to have been paid on funds, which disallowance is contrary to facts, bad in law and be deleted*

*9. Because in any case and in all circumstances of the case, the order passed is bad in law and be quashed.*

2. At the outset, the learned counsel for the assessee has contended, reiterating Grounds no.1 and 2 (supra) raised before us that the ld. CIT(A) has erred in holding that no submission/explanation was furnished; and that the ld. CIT(A), while holding so, failed to appreciate that the assessee was confined to bed and was not in a position to assist his Counsel and get the necessary preparation done.

3. In this regard, it is seen that on the first page of the impugned order, the presence of the ld. Counsel for the assessee has been noted by the ld. CIT(A). However, at page 3, in the discussion part, in the first para, the ld. CIT(A) notes certain dates and observes that when the appeal came up for hearing before him, the matter was either adjourned on the request of the assessee, or none attended on behalf of the assessee or sought adjournment or the Counsel attended, but no information was filed. The ld. CIT(A) observed that as such, it could have safely been presumed that the assessee was not serious in pursuing the appeal before him.

4. From the above, it can be gathered that the ld. CIT(A) has not provided proper opportunity of hearing to the assessee. In view of Grounds no.1 & 2 raised before us, as also argued by the ld. Counsel for the assessee, the assessee requires to be granted an opportunity of hearing before the ld. CIT(A). For this purpose, this matter is, in the interest of justice, remitted to the file of the ld. CIT(A). The ld. CIT(A) shall grant ample and adequate opportunity of hearing to the assessee and shall decide

the appeal thereafter on merit. The assessee shall co-operate in the fresh proceedings before the Id. CIT(A). All pleas available under the law shall remain so available to the assessee. The assessee shall seek no unnecessary adjournments. Ordered accordingly.

5. In the result, for statistical purposes the appeal is allowed.

Order pronounced in the open Court on 28/03/2022.

Sd/-  
[T. S. KAPOOR]  
ACCOUNTANT MEMBER

Sd/-  
[A. D. JAIN]  
VICE PRESIDENT

DATED:28/03/2022

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar