

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI  
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. Nos.403 and 404/Chny/2020  
निर्धारण वर्ष/Assessment Year: 2012-13

M/s. Global Knitting Needs (Firm),  
Block No. C-1, 4<sup>th</sup> Floor, D. No. 402,  
Akshya Belvedere Apartments, GST  
Road, Nandivaram Village,  
Guduvancherry, Chennai 603 202.

Vs. The Income Tax Officer,  
Non Corporate Ward 22(1),  
Chennai.

**[PAN:AAHFG6848D]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T.S. Lakshmi Venkataraman, CA  
प्रत्यर्थी की ओर से/Respondent by : Shri G. Johnson, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 06.04.2022  
घोषणा की तारीख /Date of Pronouncement : 12.04.2022

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

Both the appeals filed by the assessee are directed against different orders of the Id. Commissioner of Income Tax (Appeals)-10, Chennai dated 26.11.2019 towards quantum and the order dated 14.01.2020 against levy of penalty under section 271(1)(c) of the Income Tax Act, 1961 ["Act" in short] for the assessment year 2012-13. The assessee has challenged confirmation of addition of ₹.69,72,900/-

made by the Assessing Officer under section 68 of the Act as well as addition of ₹.32,03,000/- under section 69 of the Act.

2. Brief facts of the case are that the assessee filed the return of income for the assessment year 2012-13 on 29.09.2012 declaring total income of ₹.1,66,160/-. The return was processed under section 143(1) of the Act. Subsequently, scrutiny proceedings were initiated by issuing the notice under section 143(2) of the Act and served on the assessee. On perusal of the profit and loss account and balance sheet of the assessee, the Assessing Officer has noted that the total turnover was ₹.3,34,10,646/-. However, on verification of the bank statements of the assessee firm's account with Axis Bank and ICICI Bank, the credit was ₹.3,97,62,639/- and ₹.27,93,909/- respectively i.e. total credits of ₹.4,25,56,548/-. The Assessing Officer has noticed that there was an excess credits of ₹.91,45,900/- and the assessee was asked to clarify the difference between the total sales receipts and the credits in the bank statement. Since the assessee could explain the excess credit convincingly, The Assessing Officer treated the excess credit of ₹.69,72,900/- as unexplained credits under section 68 of the Act and

brought to tax. Further, since the assessee has shown unsecured loan amounting to ₹.32,03,000/- in the Schedule E of the balance sheet and not furnished any details of name, address, income tax particulars, mode of payment, etc. the same was treated as unexplained investment under section 69 of the Act and brought to tax. On appeal, the Id. CIT(A) dismissed the appeal of the assessee since the assessee neither produced any details nor appeared before the Id. CIT(A).

2.1 The Assessing Officer also levied penalty under section 271(1)(c) of the Act of ₹.31,44,353/-, which was confirmed by the Id. CIT(A).

3. On being aggrieved, the assessee is in appeal before the Tribunal against quantum additions under section 68 and section 69 of the Act as well as penalty levied under section 271(1)(c) of the Act. By filing detailed written submissions along with enclosures, the Id. Counsel for the assessee has submitted the Customs Department impounded all the documents from the beginning of the assessee company to till the date of search on 31.03.2015 and the proceedings are still pending before the Customs Excise Service Tax Appellate Tribunal (South Zonal Bench), Chennai towards levy of customs duty

to the extent of ₹.10,00,23,209/-. Therefore, the assessee could not able to present its case before the Id. CIT(A) towards quantum additions as well as levy of penalty and the Id. Counsel for the assessee prayed for affording an opportunity of being heard to the assessee to substantiate its case before the Id. CIT(A).

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. On perusal of the Id. CIT(A)'s order, we find that the assessee has not appeared during the course of appellate proceedings or produced any details towards quantum additions under sections 68 and 69 of the Act as well as levy of penalty under section 271(1)(c) of the Act. The reasons given by the assessee is that the customs proceedings are pending before the Customs Excise Service Tax Appellate Tribunal (South Zonal Bench), Chennai towards levy of customs duty and therefore, the assessee could not attend during the appellate proceedings. Though the Id. CIT(A) has given as many opportunities, the assessee has not appeared or produced any material to substantiate its claim. However, the Id. CIT(A) has not discussed the merits of the case. Hence to meet the ends of natural justice, we are of the opinion that the assessee

shall be afforded an opportunity of being heard to substantiate its case before the Id. CIT(A). Accordingly, we set aside the orders passed by the Id. CIT(A) and remit the matter back to the file of the Id. CIT(A) for fresh adjudication towards quantum additions made under section 68 and 69 of the Act as well as levy of penalty under section 271(1)(c) of the Act by affording an opportunity of being heard to the assessee to substantiate its claim.

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on 12<sup>th</sup> April, 2022 at Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 12.04.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.