

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.1571/Bang/2019
Assessment Year: 2015-16

ACIT Circle 6(3)(1) Bangalore	Vs.	Shri Ramappa Venkategowda No.09, Hurulugurki (V) Devanahalli Bengaluru 562 110 PAN NO : AHYDV7599Q
APPELLANT		RESPONDENT

Appellant by	:	Smt. Priyadarshini Besaganni, D.R.
Respondent by	:	Shri S.V. Ravishankar, A.R.

Date of Hearing	:	06.07.2022
Date of Pronouncement	:	18.07.2022

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal filed by revenue is directed against the order of CIT(A) dated 16.4.2019. The revenue raised following grounds of appeal:-

1. *“The order of the CIT (Appeals) is opposed to law and the facts and circumstances of the case.*

Page 2 of 6

2. *On the facts and circumstances of the case, whether the Ld CIT(A) is justified in treating the invoices as supporting evidence for sundry creditors when some of those invoices have words like "cash paid" or "cheque received" written on them which clearly shows that the those dues are no longer outstanding?*
3. *On the facts and circumstances of the case, whether the Ld.CIT(A) is justified in deleting the addition on grounds of uncorroborated claim of sundry creditors when the credit worthiness and genuineness of Nanjegowda remains unestablished as only a signature against journal entry is furnished as confirmation and a number of other sundry creditors remain uncorroborated?*
4. *For these and such other grounds that may be urged at the time of hearing, it is humbly prayed that the order of the CIT(A), in so far as it relates to the above grounds may be reversed and that of the Assessing Officer be restored.*
5. *The appellant craves leave to add, to alter, to amend or delete any of the grounds that may be urged at the time of hearing of the appeal."*

2. The crux of the above grounds is with regard to deletion of addition of Rs.2,22,92,683/- made on account of sundry debtors.

3. Ld. CIT(A) in his order on appeal by the assessee has observed that that the addition of Rs. Rs 2,22,92,683/- made on account of sundry creditors and the assessee's claim that the amounts payable to the suppliers being Rs. 99,15,945/- and advances received from customers for supplies on a later date amount to Rs. 1,23,76,759/- has been verified from the copies of the confirmations submitted, the ledger extracts and the copies of the invoices submitted. Ld. CIT(A) observed that the AO has not brought anything on record to show

Page 3 of 6

that the confirmations or invoices were not genuine or that these payments were not incurred by the assessee. The payments made and received are also through cheque. In view *ci* the same, tt10 amounts claimed under the head 'sundry creditors' are allowed to the assessee. Hence, the Ld. CIT(A) has held that the addition on this account of Rs. 2,22,92,683/- was deleted. Against this revenue is in appeal before us.

4. The Ld. D.R. submitted that the assessee has not proved the genuineness of the above credits neither before the AO nor CIT(A). However, CIT(A) deleted the addition without satisfying the genuineness of these credits.

4.1 The Ld. A.R. submitted that before the CIT(A), assessee filed confirmation letter from all the parties and also CIT(A) called for the remand report from the AO and the AO also submitted the reply to remand report and on that basis, CIT(A) rightly deleted addition and the same to be confirmed.

5. We have heard the rival submissions and perused the materials available on record. In this case, the assessee filed ledger accounts of various parties with signature of those parties before the CIT(A). The Ld. CIT(A) called for the remand report from the AO. AO sent the remand report dated 31.1.2019 to the Ld. CIT(A) wherein he has stated as follows:-



GOVERNMENT OF INDIA
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 6(3)(1) ROOM
NO.438,4TH FLOOR,BMTC BUILDING, 6TH BLOCK KORMANGALA,
BANGALORE-560095.

F. NO. AHYPV7599Q/Remand Report/ACIT-C-6(3)(1)/2018- 19

Date: 31.01.2019

To

The Commissioner of Income Tax (Appeal-6)
Bengaluru

(THROUGH PROPER CHANNEL)

Sir/Madam,

Sub: - Submission of Remand Report in the case of Sri. Ramappa Venkatagowda,
PAN: AHYPV7599Q for the AY.2015-16. - reg,

Please refer the above.

The assessee's case was selected under the "Limited Scrutiny" category by CASS for AY 15-16. As no response was received from the assessee, an assessment order u/s.144 was passed on 1.12.2017. The letter calling for Remand Report dated 12.7.2018 has asked for comments on the additional evidence submitted by the assessee and its merits. The comments are as follows:

1. During the course of scrutiny proceedings in the assessee's case for AY 15-16, the assessee was given multiple opportunities to furnish documents called for in support of his income filed for AY 15-16. The assessee has not utilised any such opportunity.
2. The assessment order passed includes addition made on two grounds, these grounds have been adjudicated against the additional information provided by the assessee before the Learned CIT(A)-6 and the below are the comments on the same:
 - **Agricultural Income:** The additional evidence furnished does not refer to or give evidence in support of agricultural income of Rs.27,04,345 as claimed by the assessee in his return for AY 15-16. Thus, this income still remains uncorroborated.
 - **Sundry Creditors:** The assessee has furnished copies of Invoices raised against the various creditors. On the front of it, there is a discrepancy in the amount returned as sundry creditors because in the ITR for AY 15-16, the value against sundry creditors is Rs.2,22,92,683 (as added in the assessment order dated 1.12.2017) but the assessee's books of account reports a value of Rs.99,15,924 as sundry creditors for the same AY. The discrepancy remains unexplained.

The assessee has furnished several tax invoices to support the claim of outstanding trade receivables- on random perusal of some tax invoices it was seen that the "Cash paid" or "Cheque received" is written on some of these invoices, clearly they are no longer outstanding. Case in point is the Tax invoice raised in the name of "Asha Infracore" dated 21.2.2015 on which cheque received is written and the cheque

number stated; Tax invoice raised in the name of "Asha Infracore" dated 31.12.2014 shows the words "4600 paid" and the invoice raised is of Rs.4655; Tax invoice raised in the case of "Varsha Lubricants" for Rs.1,00,000 dated 5.1.2015 on which it is written "Cash paid 1 lakh".

In the case of Mr.Nanjegowda who is the sundry creditor who owes Rs.46,25,033 to the assessee, only a signature against a journal entry is furnished as confirmation. No details of who the signature belongs to or no financials showing the said amount accounted for as sundry debtor in the books of Mr.Nanjegowda has been shown. Besides no confirmation of outstanding amounts is obtained from Dozco(India) Pvt Ltd, Tata Sudheer Kumar and Sri Manjunath Swamy Stones, Mudguruki. Upon perusal of the assessee's submissions it is seen that most of the material produced is insufficient to support the claim of the assessee.

In the light of the foregoing discussion, it is seen that the assessee's submissions in the appellate proceedings have not quelled the issues raised in the assessment order in any conclusive manner to warrant a dismissal of the additions made.

6. However, the CIT(A) deleted the entire addition on this count. Before us, the Ld. D.R. filed written submission stating that in respect of certain credits the assessee failed to file the confirmation letter from the concerned creditors.

7. According the Ld. D.R., the assessee has not produced the confirmation letters from all the parties and in cases of parties whose confirmation letters are not available, she submitted that same to be confirmed.

8. The Ld. A.R. not able to controvert the above submission of the Ld. D.R. In view of this, in our opinion, it is appropriate to remit the issue in dispute for re-examination at the end of AO. Accordingly, the issue remitted to the file of AO with the direction to the assessee to prove all the ingredients of section 68 of the Act i.e. identity, creditworthiness and genuineness of transactions in respect of all parties. We also make it clear that the AO shall not make any addition with regard to opening balance shown in the books of accounts at the beginning of the year as unexplained credit. With

Page 6 of 6

these observations, we remit these credits to the file of AO for fresh consideration.

9. The appeal of the revenue partly allowed for statistical purposes.

Order pronounced in the open court on 18th Jul, 2022

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 18th Jul, 2022.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.