

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "C" BENCH

**Before: Ms. Annapurna Gupta, Accountant Member  
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 2293/Ahd/2018  
Assessment Year 2014-15**

Kritika Saurabh Patel Cellar-7, Jaltarang Flat, Sanand Park Society, Dhor Bazar, Kankaria, Ahmedabad- 380028 PAN: ALZPP5246K  (Appellant)	Vs	The ITO, Ward-5(3)(4), Ahmedabad (Respondent)
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**Appellant by : None**  
**Respondent by : Shri V.K. Singh, Sr.D.R.**

Date of hearing : 02-08-2022  
Date of pronouncement : 05-08-2022

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

The present appeal has been filed by the Assessee against the order dated 04.09.2018 passed by the Commissioner of Income Tax (Appeals)-5, Ahmedabad, as against the Assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year (A.Y) 2014-15.

2. The brief facts of the case is that the assessee is an individual and Proprietix of S.K. Associates. For the Assessment Year 2014-15, the assessee filed her Return of Income on 22.11.2014 declaring total income of Rs.2,90,970/-. The return was taken up for scrutiny assessment and notice u/s. 143(2) was issued.

2.1. The assessee carried on the business of trading in Ferrous, non-ferrous Scrap. The assessee shown the total turnover of Rs. 8,03,03,626/- with Gross Profit of Rs. 7,74,484/- which worked out to 0.96% as Gross Profit The total net profit shown is Rs. 3,96,134/- which is 0.49%.

2.2. Perusal of the balance sheet, the Assessing Officer found that there are total sundry creditors of Rs. 1,98,10,953/- from three parties. The assessee was asked to produce the copies of the ledger account and detail of postal address of all creditors. The assessee furnished few details based on that the Assessing Officer issued letter u/s. 133(6) calling for the details, contra account confirmation etc. The notice sent to ACE Enterprises was returned unserved. Therefore Inspector of the Department was sent to serve the notice. The Inspector in his report stated that no such party is there in the given address and it is a residential complex.

2.3. As there was no further compliance from the assessee. Therefore the liabilities outstanding in the name of ACE Enterprises of Rs.53,66,621/- and Rudra Enterprises of Rs.27,43,021/- wherein the assessee has not proved the identity, creditworthiness,

genuineness of the transaction. Therefore the Assessing Officer added the above amount of Rs. 81,07,642/- as cash credit u/s. 68 of the Act.

3. Aggrieved against the same, the assessee filed an appeal before the Id. CIT(A). During the appellate proceedings, the assessee filed few more documents before the Ld. CIT(A). The additional evidences were sent to the A.O. calling for a remand report. The AO's remand report vide his letter dated 04.04.2018 which reads as follows:

*3. I have carefully considered the contention and the submission made as additional evidences such as ledger account of creditors namely; Rudra Enterprises and ACE Enterprises, purchase bills of A CE Enterprises, Purchase and sales register.*

*3.1. It is worth mentioning here that during the assessment proceedings assessee was time and again asked to produce the confirmation of the creditors. Letters issued to the creditors at the given addresses were returned un-served. Hence, this office issued notice u/s 142(1) dt 22/08/2016, along with the copy of the letter issued u/s 133(6) of the Act to ACE Enterprises, requesting to produce the required details as mentioned in the letter on the date of hearing. Further, it was requested to produce the contra account of Rudra Enterprises in which the outstanding balance is of Rs. 2743021/-. However, on the given date the details called for were not furnished. Inspector of this office was also deputed to the serve the letter at the address of 'ACE Enterprises. The inspector reported that " no such party is there at the given address. It is a residential complex ". Thus, this office had made all the efforts, prior to making addition u/s 68, to find/ locate identity and credit worthiness of the creditors. The onus was heavily on the assessee to prove the identity, credit worthiness and genuineness of all the credits outstanding in the books. The assessee failed to fulfil the onus caste upon her.*

*3.2. Therefore, any additional evidences should not be admitted. More over during assessment proceedings as well as the appellate proceedings assessee has not furnished the confirmation and credit worthiness of the creditor ACE Enterprise. Mere giving purchase bills and purchase register along with the sales register does not serve the purpose of confirming the outstanding liability in the name of the creditor. The Revenue sought confirmation of the outstanding liability which was outstanding at the end of the year, the creditworthiness of the creditor and to confirm the genuineness of the liability.*

*3.3. Thus, as submitted above, assessee has grossly failed to confirm 'the outstanding credit balances of the creditor at assessment proceedings as well as the appellate proceedings, .therefore, any other additional evidences should not be entertained / admitted.*

3.1. The assessee in her rejoinder submitted that she made purchase of Rs. 53,64,521/- from ACE Enterprise. The Managing Partner of ACE Enterprise went in the underground and submitted copies of summons from Metropolitan Court, Cancellation of VAT number, etc. Therefore the assessee could not get confirmation from ACE Enterprise. The assessee also further contended that she had made payment during the Financial Year 2014-15 & 2015-16 to ACE Enterprises and produce copy of the bank statement.

3.2. After considering the above submissions, the ld. CIT(A) confirmed the addition made by the A.O. as follows:

*3.5.1. In respect of transaction with ACE Enterprises, during the assessment proceedings the AO has called for certain details from the appellant however, the appellant has failed to furnish the same. The AO has also made inquiries u/s. 133(6) of the Act and also deputed inspector to visit the address of the said party given by the appellant to make inquiries. The letter issued u/s. 133(6) of the Act to ACE Enterprise returned unserved and the inspector after visiting the place has reported that there is no such party existed at that place. During the appellate proceedings the appellant has furnished certain additional evidences in the form of purchase bills, purchase and sales register to show that the appellant has purchase items from ACE Enterprises. The ACE has verified these evidences during the remand proceedings and stated that mere giving purchase bills, purchase register alongwith the sales register does not serve the purpose of confirming the outstanding liability in the name of the creditor. The AO has specifically called for confirmation of the said party however the appellant has failed to furnish the same during the assessment proceedings as well as during the appellate proceedings. On the given address the party was not found as reported by the inspector after visiting the place. These facts clearly show that the primary onus which lies upon the appellant has not been discharged. The contention of the appellant that in subsequent financial years the appellant has paid the outstanding amount to ACE Enterprises is not verifiable as existence of ACE Enterprises itself doubtful. It is the duty of the assessee to prove the identity, creditworthiness and genuineness of the transaction in which the appellant has failed. Considering all these facts the addition made by the AO amounting to Rs.53,64,621/- in respect of outstanding liability in the name of ACE Enterprise is confirmed.*

5. Aggrieved against the same, the assessee is in appeal before us and raising the Following Grounds of Appeal:

*1.01. That Learned C. I. T. (Appeal) - 5, Ahmedabad has erred in confirming addition made by Learned Assessing Officer of Rs. 53,64,621/- u/s 68 of The Income Tax Act, 1961.*

*1.02. That various reasons advanced by Learned C. I. T. (Appeal) - 5 Ahmedabad while conforming addition are contrary to the facts and circumstances of the case.*

*1.03. Therefore addition of Rs. 53,64,621/- u/s. 68 of The Income Tax Act, 1961 confirmed by Learned C. I. T. (Appeal) - 5, Ahmedabad deserves to be deleted.*

*2.00. The appellant craves leave to add, amend, alter, edit, delete, modify any of the grounds of appeal at the time of or before final hearing of the appeal.*

5.1. Today's hearing is the 18<sup>th</sup> hearing of this appeal, none appeared on behalf of the assessee. Even in the previous hearing, none appeared on behalf of the assessee. So with the help of the Ld. D.R. and available materials on record we dispose this appeal.

6. The Ld. Senior D.R. Mr. V.K. Singh submitted that the assessee has not proved the case both before the Assessing Officer as well as before the Appellate Authority. The assessee said to have repaid the amount in subsequent years and no details is being produced. In the absence of the same, the findings of the Ld. CIT(A) does not require any interference and therefore the appeal is liable to be dismissed.

7. We have given our thoughtful consideration and perused the materials available on record. There is a Paper Book filed by the assessee which is running to 152 Pages, wherein copies of the Ledger Account, Purchase Bills, Purchase Register and Sales Register were being filed. But no details about copy of the bank statements on the Repayment of the above amount of Rs.53,64,621/- to ACE Enterprises by the assessee during the

Financial Year 2014-15 & 2015-16. The A.O. during the remand proceedings confirmed that mere filing of purchase bill, purchase register alongwith sales register does not serve the purpose of confirming the outstanding liability in the name of ACE Enterprise. Further verification by the Department it was found that no such person in the above address and it was only a residential complex. Thus the assessee failed to provide necessary details before any of the Authorities. In the absence of the same, we have no hesitation in upholding the order passed by the Ld. CIT(A) and confirming the addition of Rs. 53,64,521/-made by the Assessing Officer. Thus the grounds raised by the assessee are rejected and appeal filed by the assessee is hereby dismissed.

8. In the result, appeal is dismissed.

Order pronounced in the open court on 05-08-2022

**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER True Copy**  
**Ahmedabad : Dated 05/08/2022**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद