

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'B': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.8940/DEL/2019  
[Assessment Year: 2012-13]**

ACIT, Room No.389A, 3 <sup>rd</sup> Floor, C.R. Building, I.P. Estate, New Delhi-110001	Vs	M/s Cheil India Pvt. Ltd. 2 <sup>nd</sup> Floor, Block-C, Vipul Tech Square, Sector-43, Golf Course Road, Gurugram, Haryana-122002
		<b>PAN-AACCC2299Q</b>
Revenue		Assessee

Revenue by	Sh. Sumit Kumar Verma, Sr.DR
Assessee by	Sh. Salil Kapoor, Adv. Sh. Sumit Lalchandani, Adv. & Sh. Amarbir Singh Walia, CA

<b>Date of Hearing</b>	<b>19.09.2022</b>
<b>Date of Pronouncement</b>	<b>22.09.2022</b>

**ORDER**

**PER SHAMIM YAHYA, AM,**

This appeal by the Revenue is directed against the order of the Ld. CIT(A)-44, New Delhi, dated 23.08.2019 pertaining to Assessment Year 2012-13.

2. Grounds of appeal reads as under

*“1. On facts and in the circumstances of the case and in law, the CIT (A) has erred in deleting the addition of Rs.2,42,96,628/- made on account of unverified creditors by relying upon the judgment of the Hon’ble IT AT Delhi in assessee’s own case for AY 2009-10 even though the creditors in the impugned AY were not the same.*

*2. On facts and in the circumstances of the case and in the law, the CIT (A) has failed to appreciate the fact that*

*even in remand proceedings, the creditors remained unverified although reasonable opportunity was afforded to the assessee company as well as the creditors.”*

3. Brief facts of the case are that the assessee is engaged in the business of advertising, communication, publicity and merchandising including market research planning and providing consultancy services and training in the same field. The Assessing Officer examined thirteen sundry creditors and out of which two creditors namely Sun-N-Star Advertising Pvt. Ltd. and Fins Enterprises India Pvt. Ltd. did not file confirmation. Though, the assessee had produced other details like PAN, Service tax registration No. VAT registration no. and CST registration no. of the parties but the Assessing Officer was not convinced. In the absence of confirmation from two sundry creditors, he treated as parties are ungenune creditors and added the amount treating to these two sundry creditors to the income of the assessee.

4. Upon assessee's appeal, the Ld. CIT(A) took note of the past history of the assessee and noted that similar issue in the assessee's case was decided in Assessment Year 2009-10, 2010-11 and 2011-12 by the ITAT. In all these years, the ITAT restored the matter to the Assessing Officer for verification of payment made to the vendors. In Assessment Year 2010-11, the ITAT, vide order dated 17.08.2016, directed the Assessing Officer to verify the payments made to the vendors and if the payment is found genuine, allow the same. Same direction was given in Assessment Year 2011-12 which was confirmed by the jurisdictional High Court. The ld. counsel for the assessee also submitted before the Ld. CIT(A) that

confirmation from these parties could not be filed as one of them had already closed down and these parties are beyond the control of the assessee. The assessee also submitted that the payable amount has been returned in the subsequent assessment year 2013-14 for which related documentary evidence was filed as fresh evidence. The Ld. CIT(A) obtained remand report and rejoinder and finally noted that Assessing Officer in the remand report has accepted that he has examined the bank statement which shows that the payment to the vendors in Assessment Year 2013-14. In view of this and the assessee's past history, the Ld. CIT(A) direct the addition to be deleted and concluded as under:-

**“6.9 Rejoinder III dt 08.08.2019:**

*The AO has reported that he has examined the additional evidence viz. copy of ledger account of the parties and bank statement showing payment to the vendors in AY 2013-14. After verification, the payments made to the vendors were found genuine. However he could not verify the same from the vendor's side in absence of updated address of the vendor.*

**6.10 Rejoinder III dt 23.08.2019:**

*The appellant filed a rejoinder reiterating the submission made earlier. It has submitted that one party has closed down long back and there is no relation with the other party since last payment. Hence, its address could not be updated as required by the AO. It was also submitted that the direction of the IT AT on this issue in earlier years was to verify the genuineness of payment made to the vendors and allow the same if payment was actually made.*

*6.11 As it is an old issue, addition has been made on the basis of past history. In view of the directions given by the ITAT, Delhi and confirmed by Delhi High Court on the same issue of unverified creditors in earlier years, the payment to*

*the vendors needed to be verified. The same has already been verified by the AO. All necessary documentary evidence, except confirmation has been furnished to the AO. Confirmation in one case is not possible as it has closed down long ago. In another case, the appellant has no relationship since long and has expressed helplessness in finding the updated address.*

*In view of all the necessary documentary evidence except confirmation already furnished and genuineness of payment to the vendors verified by the Assessing Officer, the addition is deleted. The grounds are allowed.”*

5. Against this order, the Revenue is in appeal before us.
6. We have heard both the parties and perused the record. The Ld. DR relied upon the order of the Assessing Officer.
7. Per contra, the Ld. Counsel for the assessee pointed out that the Ld. CIT(A) passed correct order which is in accordance with decision taken in assessee own case for earlier years and he supported the order of the Ld. CIT(A).
8. Upon careful consideration, we note that the Assessing Officer on the ground that confirmation from two sundry creditors have not been received has added the amount in assessee's income and before the Ld. CIT(A), the assessee filed additional evidence, which were duly remanded to the Assessing Officer. The assessee has duly submitted that due to lapse of time, he was not able to locate these parties but has given bank statement and the Assessing Officer in remand report dated 08.08.2019 has duly accepted that these bank statements showed the payment made

to vendors in Assessment Year 2013-14. In this view of the matter, wherein the remand report, the Assessing Officer himself is accepting that payment to these sundry creditors has been done in the next Financial Year, the Ld. CIT(A) is quite correct in deleting the addition. We do not find any infirmity in the order of the Ld. CIT(A).

9. In the result, this appeal by the Revenue stands dismissed.

Order pronounced in the open court on 22<sup>nd</sup> September, 2022.

**Sd/-**  
**[YOGESH KUMAR US]**  
**JUDICIAL MEMBER**

**Sd/-**  
**[SHAMIM YAHYA]**  
**ACCOUNTANT MEMBER**

**Delhi;** Dated: 22.09.2022.

*Shekhar*

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi