

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G", MUMBAI

BEFORE SHRI PRASHANT MAHARSHI (ACCOUNTANT MEMBER) &
KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA No. 6356/MUM/2019 (A.Y.2013-14)

DCIT-12(2)(2), Mumbai Room No.128F, 1 st Floor, Aayakar Bhavan, Churchgate, Mumbai-400 020	vs	M/s Goldmedal Electricals Pvt Ltd 303, Kemp Plaza, Wing A, Off Link Road, Near Inorb Mall and Mindspace, Dumping Ground Malad West, Mumbai-400 064 PAN : AACCG9397F
APPELLANT		RESPONDENT

Assessee represented by	Shri Nilesh Patel / Shri Latesh Gada
Department represented by	Shri Hoshang B Irani – (DR)

Date of hearing	02/06/2022
Date of pronouncement	29/08/2022

ORDER

Per Kavitha Rajagopal (JM):

This appeal has been filed by the assessee as against the order of the Ld.Commissioner of Income-tax (Appeals)-20, Mumbai dated 17/07/2019 passed under section 250 of the Income-tax Act, 1961 pertaining to assessment year 2013-14.

2. The solitary ground of appeal is the deletion of addition of Rs.3,07,61,845/- made on account of unproved sundry creditors merely on the basis of bills and ledgers produced by the assessee instead of actually proving the genuineness and existence of such creditors by not considering the legal proposition as held by the Hon'ble Apex Court in the case of NRA Iron & Steel Ltd arising out of SLP (Civil No.298555 of 2018 vide order dated 05/03/2019.

3. The brief facts of the case are that the assessee company is engaged in the business of manufacturing electrical switches and accessories. The assessee company filed its return of income on 13/09/2013 declaring total income of Rs.63,65,850/-. The assessee's case was selected for scrutiny and assessment order under section 143(3) was passed on 08/03/2016 and determining total income of Rs.3,71,27,700/-. The Assessing Officer has stated that there were sundry creditors amounting to Rs.6,41,98,375/- in the balance-sheet of the assessee as on 31/03/2013. The assessee had furnished details of the sundry creditors (46 parties) along with their names and addresses. The Assessing Officer had issued notice under section 133(6) to all the 46 parties and it was observed that confirmation from 25 parties out of 46 parties were received by the Assessing Officer and the remaining 21 parties had not furnished the confirmation. The Assessing Officer has calculated the total credit balance pertaining to 21 parties as Rs.3,07,61,845/- and rejected the assessee's claim and made addition of the said sum to the assessee's total income. Aggrieved by this, the assessee was in appeal before the Ld.CIT(A). The Ld.CIT(A) restricted the addition to Rs.4,95,444/- on the ground that the assessee cannot be at fault for the non compliance on the part of the remaining parties to whom the Assessing Officer issued notices under section 133(6) of the Act, also on the fact that the assessee was not given sufficient time to furnish copies of the ITRs of the sundry creditors which were not required by the assessee to maintain those documents in the regular course of its business. The Ld.CIT(A) has also considered the additional evidence that was filed by the assessee for which the Assessing Officer has failed to rebut additional evidences filed by the assessee during the appellate proceedings.

4. The Ld.DR relied upon the order of the Assessing Officer and contended that the Ld.CIT(A) has erred in deleting the addition pertaining to 20 sundry creditors and by sustaining the addition pertaining to M/s Venkateshwara Marketing alone.

5. The Ld.AR, on the other hand, argued that the assessee has filed the documentary evidence pertaining to the 20 sundry creditors as additional evidence during the appellate proceedings before the Ld.CIT(A) by giving an opportunity to the Assessing Officer to rebut the additional evidences filed by the assessee. The Ld.AR further stated that the Assessing Officer has not been able to rebut additional evidence filed by the assessee and that the Ld.CIT(A) was right in deleting the addition pertaining to 20 parties.

6. Having heard both the learned representatives and perused the materials on record, we find that the assessee has filed copies of ledgers of the 21 sundry creditors for which transaction, the impugned addition was made. The Ld.CIT(A) was fair enough to give an opportunity to the Assessing Officer to verify the veracity of the additional evidences submitted by the assessee. It is pertinent to point out that the Assessing Officer has not made any rebuttal to the said ledger copies of the 21 sundry creditors. The Ld.CIT(A), on the other hand, has perused the ledger copies of the said parties and has summarised the transaction as under:-

Sr.No.	Name	Closing Balance as on 31.03.13	Payments	Purchases during FY 13-14	Closing balance as on 31.03.14
1	AJRAMAR IMPEX PVT LTD	15,77,303	99,88,518	1,35,10,665	50,99,450
2	ATUL ENGG WORKS	4,97,250	8,06,063	4,63,501	1,54,688

3	BAJAJ ARTS	1,59,940	1,59,940	0	0
4	COLOUR TECH COATING (I) PVT LTD	43,824	43,824	0	0
5	CONTACTWELL	1,83,750	8,77,213	6,93,463	0
6	GENIUS MARKETING	1,95,233	1,95,233	2,13,760	2,13,760
7	G R ELECTRIC WORKS	1,25,438	6,06,882	7,58,166	1,07,413
8	JRD CORPORATION	1,01,680	3,16,551	3,22,284	1,07,413
9	KRIHNA INDUSTRIES	2,77,875	11,32,875	18,69,750	10,14,750
10	MAHA CERA	2,44,679	3,54,166	4,07,084	2,97,597
11	MATHAROO RIVET INDUSTRIES	7,81,200	14,77,455	6,96,255	0
12	MONA ENTERPRISES	1,80,38,8 95	3,14,99,92 4	1,48,01,90 8	13,40,879
13	OMSAI PACKAGING	11,81,250	30,55,500	34,49,250	15,75,000
14	PRADAKO FASTNERS	2,81,700	2,81,700	0	0
15	SAI SILICONES	42,378	3,19,200	3,20,519	43,697
16	SHEEL CORRUGATING INDUSTRIES PVT LTD	1,54,984	1,75,476	2,59,094	2,38,602
17	SHIVAM ENGINEERING WORKS	2,45,318	2,45,318	0	0
18	SIDDHIVINAYAK ENTERPRISES	3,09,572	8,31,766	5,22,194	0
19	SIDDHIVINAYAK INDUSTRIES	4,96,404	8,41,110	3,44,706	0
20	VENKATESHWARA MARKETING	12,45,444	7,50,000	0	4,95,444
21	VNP ELECTRICALS PVT LTD	45,77,728	60,77,728	66,39,452	51,39,452

7. The Ld.CIT(A) has examined above transactions and has concluded that except M/s Venkateshwara Marketing which is mentioned at serial No.20, the payments that was made during the following financial year i.e. F.Y. 2013-14 exceed the closing balance as on 31/03/2013. The Ld.CIT(A) has also stated that with respect to parties specified at serial No.3,4,5,11,14,17, 18 & 19, the closing balance as on 31/03/2014 was at Nil. From the above observation, the Ld.CIT(A) held that the assessee's claim of liabilities to the said parties stands justified and thereby deleted the addition made in respect of parties at serial No.1 to 19 and serial No.21. The Ld.C IT(A) has further stated that the remaining parties, M/s Venkateshwara Marketing mentioned at serial No.20 for whom the assessee said to have made a payment of Rs.7,50,000/- in the subsequent financial year making the outstanding balance as Rs.4,95,444/- out of the total of Rs.12,44,444/- as on 31/03/2014. It was also observed that vide letter dated 31/07/2018, the authorised representative of the assessee has submitted that the said amount of Rs.4,95,444/- was the balance outstanding amount out of Rs.12,45,444/-. This contention of the assessee was not accepted by the Ld.CIT(A) on the ground that the assessee has not furnished details of payment towards the liability of Rs.4,95,444/- and that the return of income of M/s Venkateshwara Marketing was also not filed before the lower authorities nor before us.

8. From the above observation, we hold that there is no infirmity in the order of the Ld.CIT(A) pertaining to the deletion of addition with regard to the parties specified at serial Nos. 1 to 19 and 21 and confirmation of addition pertaining to M/s Venkateshwara Marketing specified at serial No.21. Resultantly, we uphold the order of Ld.CIT(A) and thereby dismiss the appeal filed by the Revenue.

9. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open Court on 29th August, 2022.

Sd/-

sd/-

(PRASHANT MAHARSHI)	(KAVITHA RAJAGOPAL)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Mumbai, Dated: 29/08/2022

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Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai