

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND  
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 2934/Chny/2019

निर्धारण वर्ष / Assessment Year: 2012-13

Deputy Commissioner of  
Income Tax,  
Corporate Circle 3(2),  
Chennai – 600 03

M/s. Vanishita Ispat Udyog  
v. Private Ltd.,  
C/o. N D Rajagopal & Co.,  
No. 14, Rani Annadurai Street,  
Mandavelli, Chennai – 600 028.

**[PAN: AABCV-9652-P]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. Varuvooru Sreedhar, Addl. CIT

प्रत्यर्थी की ओर से/Respondent by : Shri. M.V. Swaroop, Advocate

सुनवाई की तारीख/Date of Hearing : 18.10.2022

घोषणा की तारीख/Date of Pronouncement : 21.10.2022

**आदेश / O R D E R**

**PER G. MANJUNATHA, ACCOUNTANT MEMBER:**

This appeal filed by the Revenue is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-11, Chennai, dated 06.08.2019 and pertains to assessment year 2012-13.

2. The Revenue has raised the following grounds of appeal:

*"1. The order of the learned CIT(A) is contrary to law and facts and circumstances of the case.*

2. The Id.CIT(A) erred in allowing the claim of chit loss even when running chit fund was not assessee's business and the contributions made to the chit fund cannot be treated as revenue expenditure, nor indeed the payment and receipt of any amount to and from the chit fund are the business activity of the assessee.

3. The Id.CIT(A) erred in relying on the decision of the jurisdictional Hon'ble High Court in the case of V.Rajkumar Vs CIT (2006) in TCA No.2601 of 2006 even when facts of the instant case are not similar as the question before the Court in V.Rajkumar Vs CIT (2006) in TCA No.2601 of 2006 was the taxability of dividend receipt, whereas in the instant case the question is allowability of loss on chit.

4. The Id.CIT(A) erred in overlooking the decision of the Hon'ble jurisdictional High Court in TCA No.1023 of 2007, dated 22/08/2007 in the case of Shri Sunil Koliyot Vs The Income Tax Officer and deleting the addition made by the Assessing Officer on the claim of loss on chit.

5. The Id.CIT(A) erred in overlooking the decision of the Punjab & Haryana High Court in the case of M/s.Soda Silicate an Chemical Works Vs CIT ( 1989) 179 ITR 588 (P&H) and deleting the addition made by the Assessing Officer on the claim of loss on chit.

6. The Id.CIT(A) erred in considering the confirmation letters submitted by the assessee during the appellate proceedings though the same were not produced before the Assessing Officer in spite of the adequate opportunity given to the assessee during the assessment proceedings.

7. The Id.CIT(A) erred in holding that confirmation letters deserve to be taken at face value even while having coterminous powers as that of the Assessing Officer, ought to have summoned and/or verified the said creditors?

8. The Id.CIT(A) erred in not appreciating the fact that in the books of the assessee M/s.DS Metals (P) Ltd and M/s.Sakthi Metals & Steels were categorised under the head "Unsecured loans" and not under the head "Sundry creditors for goods", whereas in the confirmation letters from M/s.DS Metals submitted during the appellate stage, the outstanding balance of Rs.3,21,53,296/- was towards sale of goods.

9. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer be restored."

3. The brief facts of the case are that, the assessee is engaged in the business of manufacturing and wholesale trading in iron & steel scraps and finished goods, filed its return of income for the assessment year 2012-13 on 19.09.2012 admitting total income of Rs. 1,52,05,529/-. The case has been selected for scrutiny and the assessment has been completed u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") on 27.03.2015 and determined total income of Rs. 5,07,73,469/- after making various additions, including addition towards disallowance of loss of chit amounting to Rs. 5,98,250/- and addition towards unexplained credit u/s. 68 of the Act for Rs. 3,44,08,453/-.

4. The assessee carried the matter in appeal before the first appellate authority, and during the course of appellate proceedings, the assessee has filed additional evidence in the form of confirmation letter from M/s. D.S. Metal (P) Ltd to prove unsecured loan. The assessee had also filed confirmation letter from M/s. Shakthi Metals and Steels. The Ld. CIT(A) furnished additional evidence filed by the assessee to the Assessing Officer for his comments. But, the AO has preferred not to examine the evidence submitted and counter

the reply filed by the assessee. Therefore, the Ld. CIT(A) has deleted addition made towards unexplained credit u/s. 68 of the Act on the basis of the evidence filed by the assessee. The Ld. CIT(A) had also deleted addition made towards loss of chit by following the decision of Jurisdictional High Court of Madras in the case of V. Raj Kumar vs CIT (2006) in TCA No.2601 of 2006. Aggrieved by the CIT(A) order, the Revenue has filed appeal before us.

5. The first issue that came up for consideration from ground no. 2 to 5 of Revenue appeal is deletion of addition towards loss of chit. The assessee has subscribed for chit fund and made a premature drawing and incurred loss. The assessee has claimed chit loss as business loss on the ground that the chit fund has been used for the purpose of business. The AO had disallowed chit loss on the ground that the subscription to chit is mutuality and any gain on chit fund is exempt from tax and consequently, loss on chit cannot be allowed as deduction.

6. We have heard both parties and considered relevant materials available on record. We find that, the CIT(A) has

deleted the addition by following decision of Hon'ble Madras High Court in the case of V. Raj Kumar vs CIT (2006) in TCA No.2601 of 2006, where the Hon'ble High Court clearly held that any profit or loss arising from the chit subscription activity is liable for taxation and consequent loss of chit is a allowable deduction. The finding of facts recorded by the Ld. CIT(A) in light of decision of Jurisdictional High Court of Madras, V. Raj Kumar vs CIT (2006) in TCA No.2601 of 2006, supra is uncontroverted by the Revenue. Therefore, we are inclined to uphold the findings of the Ld. CIT(A) and reject ground filed by the Revenue.

7. The next issue that came up for consideration from ground no. 6 to 8 of Revenue appeal is deletion of addition towards unexplained credit u/s. 68 of the Act. The AO has made addition towards unsecured loan taken from M/s. D.S. Metal (P) Ltd and M/s. Shakthi Metals and Steels, on the ground that the assessee could not submit necessary evidence including confirmation letters from the party. The assessee had submitted confirmation letters before the CIT(A) and the CIT(A) has furnished additional evidence filed by the assessee to the AO for his comments. The AO neither submitted

remand report nor commented on admissibility of additional evidence filed by the assessee and thus, the CIT(A) deleted addition on the basis of confirmation letters filed by the assessee.

8. We have heard both the parties and perused materials available on record. Admittedly, the assessee could not file confirmation letters before the AO. However, the assessee has obtained confirmation letters from the creditors and submitted before the CIT(A). Although, CIT(A) has furnished additional evidence along with confirmation letters to the AO, but the AO chose not to comment on additional evidence filed by the assessee. Therefore, on this ground itself, the addition made by the AO cannot be sustained. Be that as it may, the CIT(A) has discussed the addition made by the AO in light of confirmation letters filed by the assessee and has recorded categorical finding that the assessee has proved unsecured loan, claims to have been received from M/s. D.S. Metal (P) Ltd and M/s. Shakthi Metals and Steels. The factual findings recorded by the Ld. CIT(A) is uncontroverted by the Revenue. Therefore, we are of the considered view that there is no error in reasons given by the CIT(A) to delete addition towards

unexplained cash credit and thus, we are inclined to uphold the finding of the CIT(A) and reject the ground taken by the Revenue.

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

Order pronounced in the court on 21<sup>st</sup> October, 2022 at Chennai.

**Sd/-**  
(वी दुर्गा राव)  
**(V. DURGA RAO)**  
न्यायिकसदस्य/Judicial Member

**Sd/-**  
(जी. मंजुनाथ)  
**(G. MANJUNATHA)**  
लेखासदस्य/Accountant Member

चेन्नई/Chennai,  
दिनांक/Dated: 21<sup>st</sup> October, 2022

**JPV**

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