

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B", HYDERABAD

BEFORE  
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 374/Hyd/2018  
(निर्धारण वर्ष / Assessment Year: 2013-14)

Haritha Fertilisers Limited, Vs. The Asst. Commissioner of  
Hyderabad Income Tax,  
[PAN No. AACCH0393J] Circle-2(2),  
Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.A.Sai Prasad, AR  
राजस्व द्वारा/Revenue by: Shri Jeevan Lal Lavidiya, CIT-DR

सुनवाई की तारीख/Date of hearing: 03/11/2022  
घोषणा की तारीख/Pronouncement on: 03/11/2022

आदेश / ORDER

**PER K. NARASIMHA CHARY, JM:**

Aggrieved by the order dated 19/12/2017 passed by the learned Commissioner of Income Tax(Appeals)-2, Hyderabad ("Ld.CIT(A)") in the case of M/s. Haritha Fertilizers Limited ("the assessee") for the assessment year 2013-14, assessee preferred this appeal.

2. Brief facts of the case are that the assessee company is engaged in the business of Manufacturing of Chemical Mixture Fertilizers. They have

filed their return of income for the assessment year 2013-14 on 26/09/2013 declaring an income of Rs. 1,87,58,230/-.

3. During the course of assessment proceedings, learned Assessing Officer noticed that certain amounts were credited to the balance sheet as on 31/03/2013 as 'un-secured credits' and one out of such amounts is Rs. 6,23,21,076/- from M/s. Haritha Infra Capital Solutions Pvt. Ltd., (HICSPL). In respect of this particular creditor, learned Assessing Officer observed that

- i. this entity returned loss of Rs. 4,500/- and it has neither shown any tax payable nor claimed any TDS credit and thus the creditworthiness of the company was not proved;*
- ii. share capital of HICSPL is only Rs. 1 lakh whereas it has received unsecured loans of Rs. 13,14,90,670/- as on 31/3/2013 as against unsecured loan of Rs. 5,08,11,100/- as on 31/3/2012 reflecting increase in unsecured loan during the year under consideration by Rs. 8,06,79,570/-, there are no bank loans and no other liabilities like sanitary creditors, and in short the entire sources of funds of HICSPL is unsecured loans only;*
- iii. on the asset side out of the Balance Sheet total of Rs. 13,15,90,670/-, Rs. 12,98,85,659/- is on account of "short term loans and advances to others", it is evident that HICSPL has almost given the entire unsecured loans received by it as unsecured loan to others, it shows that HICSPL neither paid the interest on the unsecured loans received by it not charged interest on the unsecured loans given by it, they fixed assets of the company or only Rs. 43,670/- and accepted depreciation, no other expenditure has been claimed, the details of shareholders and nature of business have also not been discussed in the annual report, and it therefore goes to show that it is beyond any doubt that HICSPL is merely a paper company;*
- iv. from the bank statement of HICSPL, it is observed that there are cash deposits and credits on the same date on which*

*unsecured loans were given to the assessee and further, HICSPIL has shown huge the transactions in the bank account allegedly towards receipt and payment of unsecured loans; and*

- v. *it is, therefore, evident that the source of unsecured loans of Rs. 6,23,21,074/- credited in the books of assessee has not been explained to the satisfaction of the learned Assessing Officer and the assessee has not discharge the onus under section 68 of the Income Tax Act, 1961 (for short "the Act").*

4. Apart from this the learned Assessing Officer also added a sum of Rs. 3,73,600/- in respect of the unsecured credit from one Naga Gangadhar Reddy On this premise the learned Assessing Officer added the sum of Rs. 6,23,21,074/- to the income of the assessee and by order dated 14/3/2016 passed under section 143(3) of the Act determined the income of the assessee at Rs. 8,14,52,904/-.

5. Aggrieved by such an action of the learned Assessing Officer, assessee preferred appeal before the Ld. CIT(A) and contended that HICSPIL is an investment company promoted by the directives of the assessee company, it did not start its activities of investing during the relevant year, all the transactions were through banking channels and the assessee discharged initial burden by furnishing confirmation letters from the creditor and other details, and if for any reason the learned Assessing Officer entertain any doubt regarding the identity, genuineness and the creditworthiness of the crater, the learned Assessing Officer could have conducted necessary enquiries before coming to any adverse conclusion. Apart from this the assessee had taken the alternative plea that the learned Assessing Officer misdirected herself and wrongly took the closing balance as on 31/3/2013 at Rs. 7,24,37,481/- whereas it was actually the total credits for the year under consideration.

6. Ld. CIT(A) having considered the material before him reached the same conclusion as that of the learned Assessing Officer, in respect of the

creditworthiness of the creditor of the assessee and also the genuineness of the transaction. Ld. CIT(A) however agreed with the assessee on the aspect of the quantum of addition and found as a matter of fact, that the PE credit was only Rs. 3,69,40,505/- as on 1/2/2013 and directed the learned Assessing Officer to verify the said PE credit limit the addition to such figure while giving effect to the order of the first appellate authority.

7. Ld. CIT(A) further confirmed the addition of Rs. 3,73,600/- under section 68 of the Act in respect of the unsecured loan from one Shri Naga Gangadhar Reddy.

8. Assessee challenged this findings of the Ld. CIT(A) before us by way of this appeal. It is the submission on behalf of the assessee that the authorities below doubted the source of source of the assessee and without calling upon the assessee, to clarify the doubts if any, about the creditworthiness of the source of the assessee and the genuineness of transaction of the creditor of the assessee, in all fairness they should have sought information or details to support the creditworthiness and genuineness of the transactions in respect of the source of the assessee. According to the learned AR, the assessee confined to the identity and creditworthiness of their creditor and the genuineness of the transaction between the assessee and their creditor, whereas the authorities doubting the creditworthiness and genuineness of transaction in respect of the source of source, made the disallowance.

9. In this context, assessee filed the details of the creditors of HICSPL with the returns of income of the creditors of HICSPL and all other relevant material like their financials alongwith a petition to admit the additional evidence, stating that before the authorities below, the assessee, to justify the genuineness of the credit, relied on the claim that the amounts were received by it from a corporate entity assessed to tax separately and the transactions were duly recorded in the books of the lending company. Since the authorities, however, now questioned the source of the source

the assessee is furnishing all the details in supports of the creditworthiness of HICSPL and the genuineness of the transactions done by HICSPL with its creditors.

10. Learned DR vehemently opposed the additional evidence stating that there is no sufficient reason for the assessee not to file this evidence before the authorities below, and the evidence now proposed is in the nature of new facts related to a much earlier period and verification may not be feasible at this point of time. Learned DR placed reliance on the Hon'ble High Court in the case of A.K.Babu Khan Vs. CWT (1976) 102 ITR 757 (AP) to submit that a party guilty of remissness and gross negligence is not entitled to indulgence being shown to adduce additional evidence.

11. In reply, learned AR submitted that in this case, there is no gross negligence nor remissness on the part of the assessee, because in this case, the additional evidence is not in respect of the creditworthiness of assessee's creditor but the authorities doubted the creditworthiness of the creditors of the assessee's creditor, which the assessee could not foresee reasonably and, therefore, it is only the attempt of the assessee to dispel the cloud that cast on the genuineness of this transaction all through, the assessee is producing the additional evidence now and, therefore, no negligence could be attributed to the assessee.

12. We have gone through the record in the light of the submissions made on either side. In this case, HICSPL is the creditor of the assessee. The authorities doubted the creditworthiness of this HICSPL, because of the opening balance of HICSPL, the worth of the fixed assets possessed by HICSPL and the details of shareholders and the nature of business not being discussed in the annual report. In a way the authorities doubted the creditworthiness of the source of HICSPL.

13. In these circumstances, we are of the considered opinion that the non-production of the details of the source of source cannot be dubbed as

negligence on the part of the assessee. Further according to the assessee, all the transactions relating to the creditworthiness of the creditors of HICSPL could be deciphered from the income tax returns and other financial statements furnished now. We are, therefore, of the considered opinion that it is necessary to admit the additional evidence which has a bearing on the issue before us. Since a factual verification is necessary in this matter, which could conveniently be done by the learned Assessing Officer we set aside the impugned orders and restore the issue to the file of the learned Assessing Officer to verify the evidence now produced and decide the issue afresh after giving an opportunity to the assessee. Assessee is at liberty to canvass their defence against the addition of Rs. 3,76,600/- also before the learned Assessing Officer. Grounds are accordingly treated as allowed for statistical purposes.

14. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 3<sup>rd</sup> day of November, 2022

Sd/-  
**(RAMA KANTA PANDA)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 03/11/2022

TNMM

Copy forwarded to:

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Hyderabad.
2. The ACIT, Circle-2(2), Hyderabad.
3. CIT(A)-2, Hyderabad.
4. Pr.CIT-2, Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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