

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "A" :: PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1377/PUN/2018
निर्धारण वर्ष / Assessment Year : 2001-02

Sangppa G. Darigol, 68, Kanshik Nagar, Jule, Solapur. PAN: AASPD 8923 D	V s	The Asst. Commissioner of Income Tax, Circle-1, Solapur.
Appellant/ Assessee		Respondent /Revenue

Assessee by	None.
Revenue by	Shri Ramnath P Murkude – DR
Date of hearing	05/12/2022
Date of pronouncement	12/12/2022

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Assessee against the order of the
ld.Commissioner of Income Tax(Appeal)-9, Pune dated 15.05.2018
emanating from the order of the Assessing Officer under section
143(3) dated 24.11.2006. The grounds of appeal by the assessee are
as under :

“1. Ld CIT Appeal 9 Pune has erred in dismissing appeal and confirming additions to the total income of Rs. 5,31,377/- without appreciating facts of the case in proper perspective.

2. The Ld. CIT Appeal has further erred in hodling that assessee was given opportunity of cross examination in assessmeent and remand proceedings.

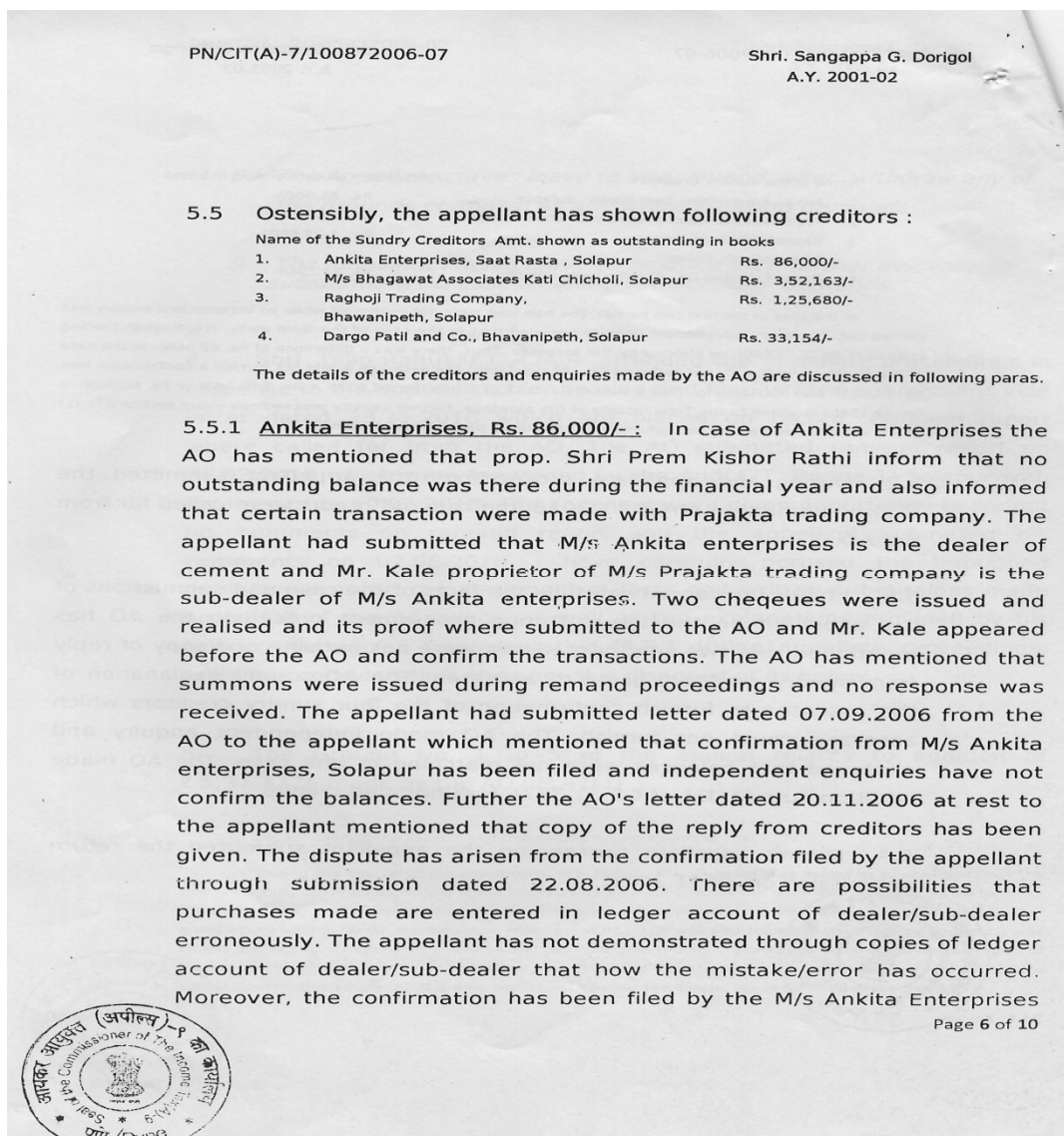
3. The Ld CIT Appeal has erred in confirming the addition on the material collected behind the back of the assessee in independent enquiries by AO without giving opportunity of cross examination/ rebutal.

4. The appellant craves leave to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal.

5. The appellant craves leave to produce such further evidence as and when occasion demands.”

None appeared for the assessee. It was observed that on 25.11.2022 and 07.07.2022 also the case was adjourned, because none appeared for the assessee. Since no one has appeared for the assessee, we heard ld.Departmental Representative(ld.DR) for the Revenue and are deciding the case as ex-parte.

2. The issue has been discussed by the ld.CIT(A) as under:



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and submitted to the AO and it never admitted before the AO that the confirmation given is wrong and information given to the AO in response to independent enquiries is correct. The onus was on the appellant to prove that the credit appearing in name of M/s Ankita Enterprises is correct and confirmed by the concerned parties. It was for the appellant to reconcile the transactions made between the appellant and dealer/sub-dealer and how the balances appearing in books @ ₹ 86,000/- is correct. The contention of the appellant that the opportunity to cross examine has not been provided loses its value when remand report were called and the concern party did not turn up for examination. Moreover, this party is witness of the appellant which has been examined by the AO and result of examination has been communicated to the appellant. Under this circumstances on the face of the confirmation which has been prove to be wrong leads to the conclusion that the credit appearing in name of M/s Ankita Enterprises @ ₹ 86,000/- remain unproved. Therefore, the action of the AO in making the addition of ₹ 86,000/- is confirmed.

5.5.2. M/s Bhagawat Associates Kati Chicholi, Solapur, ₹ 3,52,163/- :

The appellant submitted confirmation of M/s Bhagawat Associates to the AO through submission dated 22.08.2006. The AO made independent enquiry and the said party submitted that there are no balances. Even during the remand proceedings the creditors reiterated its stand. The party has mentioned that the confirmation filed by the appellant before the AO has not been signed by the party which means the appellant has failed to file legally valid confirmation. It is also apparent that the appellant had purchases of diesel from the party and accounts has been settled leaving no closing balance. The onus was on the appellant to prove that the credit appearing in name of M/s Bhagawat Associates is correct and confirmed by the concerned party. The contention of the appellant that the opportunity to cross examine has not been provided

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that the credit appearing in name of Dargo Patil and Co. of ₹ 32,575/- (₹ 33,154 - ₹ 579/-) is unproved and AO has rightly added of the total income of to assessee / appellant to the extent of ₹ 32,575/- .

3. Thus, the issue was genuineness of the creditors. The assessee has not filed any documents before us to prove the genuineness of the creditors. The Assessing Officer(AO) had carried independent enquiries to prove that the creditors were not genuine. During the appeal proceedings before the Id.CIT(A), the assessee filed certain submissions and Remand Report was called-for from the AO. The copy of the Remand Report was provided to the assessee. Therefore, assessee had been given opportunity to rebut. However, the assessee failed to rebut. The onus is on the assessee to prove genuineness of the creditors. In this case, the assessee failed to prove the same, therefore, order of the Id.CIT(A) is upheld, accordingly, grounds of appeal of the assessee are dismissed.

4. In the result, appeal of the Assessee is Dismissed.

Order pronounced in the open Court on 12th December, 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 12th December, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.