

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' 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.: **669/Chny/2020**
निर्धारण वर्ष / Assessment Year: 2017-18

The Deputy Commissioner of
Income-tax,
Circle-1,
No.44, Williams Road,
Cantonment,
Trichy – 620 001.

M/s. Shri Amman Steel and
v. Allied Industries Pvt. Ltd.,
No.1, Silampudayanpatti Raod,
Nagamangalam, Trichy – 20.
[PAN: AALCS-5586-R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri. AR.V. Sreenivasan, Addl. CIT
: Shri. S. Sridhar, Advocate &
Shri. N. Arjunraj, CA

सुनवाई की तारीख/Date of Hearing

: 07.12.2022

घोषणा की तारीख/Date of Pronouncement

: 31.01.2023

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)-1, Trichy, dated 21.05.2020 and pertains to assessment year 2017-18.

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

"1. The order of the learned Commissioner of Income tax (Appeals), Trichy is contrary to the law, facts and circumstances of the case.

2. The CIT(A) erred in deleting the addition of Rs. 3,51,30,505/- on account of sundry creditors without appreciating the facts the assessee failed to substantiate its claim despite sufficient opportunities were provided to the assessee during the course of assessment proceedings.

3. The CIT(A) erred in admitting the additional evidences under Rule 46A of the I.T. Rule, 1962 without providing the opportunity to the Assessing Officer as required under sub rule 3 of Rule 46A.

4. The appellant craves to amend, modify, alter, add or forego any ground(s of appeal at any time before or during the hearing of appeal."

3. The brief facts of the case are that, the assessee company has filed its return of income for the assessment year 2017-18 on 28.10.2017, declaring total income of Rs. 4,35,85,650/-. The case was selected for scrutiny and assessment has been completed u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") on 30.12.2019 and determined total income of Rs. 8,04,85,353/-, by making addition towards trade payables at Rs. 3,68,99,703/- u/s. 68 of the Act, for non-filing details like confirmation from the creditors. The assessee carried the matter in appeal before the first appellant authority and filed confirmation from certain parties. The Id. CIT(A), after considering relevant submissions

of the assessee and also by relying upon certain judicial precedence partly allowed appeal filed by the assessee, where he had deleted addition made towards trade payables u/s. 68 of the Act for Rs. 3,51,30,505/- and sustained balance additions of Rs. 17,69,198/-, because the assessee could not file confirmation from the parties. Being aggrieved by the CIT(A) order, the revenue is in appeal before us.

4. The Ld. DR, submitted that the Ld. CIT(A) erred in deleting addition made towards trade payables u/s. 68 of the Act, by admitting certain additional evidence without providing opportunity to the Assessing Officer for his verification in violation of Rule 46A of the Income-tax Rules, 1962.

5. The Ld. Counsel for the assessee, referring to CIT(A) order submitted that the assessee has filed confirmation from 23 parties and also explained the nature of transactions with the parties. The CIT(A) has recorded categorical finding in his appellant order at para 3 and also reproduced parties from whom the assessee has filed confirmation letter. Therefore, he has deleted additions wherever assessee could file confirmation from the parties and sustained additions

wherever assessee could not file confirmation. Therefore, there is no merit in grounds taken by the assessee in light of violation of rule 46A of IT Rules, 1962.

6. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The AO had made additions towards trade payables by making one line observation that the assessee could not furnish confirmation from the parties. The CIT(A), has deleted additions made towards trade payables by holding that the assessee is able to furnish confirmation from 23 parties and also explained nature of transactions with said parties. Therefore, he has deleted additions to the tune of Rs. 3,51,30,505/-, wherever assessee could file confirmation from the parties. In so far as, balance amount of Rs. 17,69,198/-, the assessee could not furnish any evidence before the CIT(A). Therefore, he has sustained additions to that extent. The only grievance of the revenue is with regard to violation of rule 46A of the IT Rules, 1962. In our considered view, when the CIT(A) has recorded categorical finding that the assessee has furnished confirmation and also reproduced the party name and address from whom the assessee had transactions, there

is no need to give opportunity to the Assessing Officer for his comments, because, the CIT(A) himself has verified confirmation filed by the assessee. Therefore, we are of the considered view that there is no error in the reasons given by the CIT(A) to partly allow appeal filed by the assessee. Thus, we are inclined to uphold the findings of the CIT(A) and dismiss the appeal filed by the revenue.

7. In the result, appeal filed by the revenue is dismissed.

Order pronounced in the court on 31st January, 2023 at Chennai.

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिकसदस्य/Judicial Member

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 31st January, 2023

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |