

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री वी. दुर्गा राव, माननीय न्यायिक सदस्य एवं
श्री मंजूनाथा .जी, माननीय लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1514/Chny/2018
निर्धारण वर्ष /Assessment Year: 2014-15

The Income Tax Officer,
Corporate Ward-2(2),
Chennai.

v. M/s.Gemini Iron & Steel-
Pvt. Ltd.,
Shop No.4, Basement, No.73,
Prince Plaza, Pantheon Road,
Egmore, Chennai-600 008.
[PAN: AADCG 7626 E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Department by

: Mr. AR.V.Sreenivasan,
Addl.CIT

Assessee by

: Mr.K. Subramanian, CA

सुनवाई की तारीख/Date of Hearing

: 08.02.2023

घोषणा की तारीख /Date of Pronouncement

: 08.03.2023

आदेश / ORDER

PER MANJUNATHA.G, AM:

This appeal filed by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-6, Chennai, dated 22.02.2018, and pertains to assessment year 2014-15.

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

1.The Order of the learned Commissioner of Income Tax (Appeals) is contrary to the Law and facts of the case.

2.1 The CIT(A) erred in deleting the addition made u/s.68 with regard to cash deposits without relying on any evidence furnished by the assessee. 2.2 The CIT(A) erred in sustaining the addition to the extent of Rs.20,11,552/- by relying the reconciliation statement submitted by the assessee instead of sustaining the whole addition of Rs.7,26,80,135/-.

:: 2 ::

2.3 The CIT(A) failed to insist the assessee to furnish the details in support of the source for cash deposits to allow the assessee's claim.

2.4 The CIT(A) failed to consider the fact that the assessee had furnished only the reconciliation statement that too confirms only the closing balance of trade receivables as per the books of accounts and the balance sheet of the assessee.

2.5 The CIT(A) ought to have appreciated the fact that the addition was made u/s.68 towards cash deposits for non-furnishing of evidence for the source for the same, whereas the assessee has tried to substantiate the above said claim only through reconciliation statement which is not acceptable.

2.6 The CIT(A) ought to have appreciated the fact that the addition was made by the AO after considering the very same reconciliation statement furnished during the course of assessment proceedings, which was not considered as a proof for assessee's claim of source for the cash deposits.

3. For these and other grounds that may be adduced at the time of hearing, it is prayed that the Order of the learned Commissioner of Income Tax (Appeals) be set aside and that of the Assessing Officer be restored.

3. The brief facts of the case are that the assessee company is engaged in the business of manufacturing iron & steel, filed its return of income for the AY 2014-15 on 15.04.2015 admitting total income of Rs.10,15,200/-. The case was selected for scrutiny and during the course of assessment proceedings, the AO noticed that the assessee has made cash deposits of Rs.7,26,80,135/- to account maintained with M/s.Karur Vysya Bank Ltd. (in short "M/s.KVB"). The AO called upon the assessee to explain source for cash deposits. In response, the assessee submitted that out of receipts from trade receivables, the assessee has deposited a sum of Rs.5,14,32,192/-. The assessee further contended that it has received a sum of Rs.2.20 Crs. from M/s.Sri Baba Trading Co. The AO on the basis of details filed by the assessee analyzed trade receivables of current year & previous year and opined that the claim of the assessee that a sum of Rs.5,14,32,192/- cash received from trade receivables is unsubstantiated. The AO was also analyzed ledger extract of certain parties, including

:: 3 ::

M/s.Kanishk Steels, M/s.Dharmah Steel & M/s.Meenakshi Industries and opined that the assessee has received money from these three parties in cheque. Therefore, the claim of the assessee that it has received cash from certain parties is not supported with necessary evidences. The AO had also rejected the claim of the assessee that it has received a sum of Rs.2.20 Crs. from M/s.Sri Baba Trading Co., as advance for purchase of materials in cash, because, cash receipts from said entity on various dates is not matching with cash deposits appearing in the bank statement. Therefore, rejected explanation of the assessee and made addition of Rs.7,26,80,135/- as unexplained cash credit u/s.68 of the Act.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee has filed detailed written submissions on the issue, which has been reproduced at Page Nos.5-8 of Ld.CIT(A)'s order. The sum and substance of the arguments of the assessee before the Ld.CIT(A) are that the AO wrongly analyzed trade receivables of the assessee by considering opening balance and closing balance without taken into account sales made for FY 2013-14. If you consider, opening balance of debtors as on 01.04.2012 **plus** sales as per P & A/c **minus** closing balance of trade receivables as on 31.03.2013, then, there is a receipt of Rs.14,71,51,480/- which includes a sum of Rs.5,14,32,192/- cash receipts from various parties. The assessee further submitted that the assessee had also filed confirmation from various parties, including M/s.Sri Baba Trading Co., to prove that advance has been

:: 4 ::

received for supply of materials. The AO without appreciating facts, simply made additions towards cash deposits u/s.68 of the Act. The Ld.CIT(A) after considering relevant submissions of the assessee and also taken note of reconciliation filed by the assessee to explain the position of trade receivables as on 01.04.2012 & as on 31.03.2013 opined that the assessee has filed all evidences to prove cash receipts from various parties, including M/s.Sri Baba Trading Co. The Ld.CIT(A) further observed that the assessee has received a sum of Rs.5,14,32,192/- from various parties in cash has also received a sum of Rs.2.20 Crs. from M/s.Sri Baba Trading Co. Therefore, the Ld.CIT(A) opined that there is no basis for the AO to consider cash deposits u/s.68 of the Act, as unexplained cash credit and thus, direct the AO to delete addition made towards cash deposits u/s.68 of the Act. The relevant findings of the Ld.CIT(A) are as under:

4.1. In the instant case, appellant has filed return of income 15.04.2015 for A.Y.2014-15 admitting taxable income of Rs.10,15,200/-. Appellant is stated to be engaged in the business of trader/manufacturer of iron and steel. On scrutiny, AO has noticed that appellant company has made cash deposits more than Rs.2 lakhs in bank account held in Karur Vysya Bank Ltd. It is further noticed by the AO that cash deposits work out to Rs.7,26,80,135/- and further stated that huge transactions of debit and credit through cheque were also seen from the same bank account. After verification, AO has decided to consider entire cash credits of Rs.7,26,80,135/- as unexplained cash credit and taxed accordingly.

4.2. Before me, Ld.AR has filed written submissions which have been reproduced at supra. However, the relevant submissions on the issue is considered hereunder. Ld.AR has filed following reconciliation statement of trade receivables which is the main borne of contentions between the appellant and the AO;

For your honor's ready reference, the reconciliation is reproduced herewith:

Final Cash Credit to be arrived

Particulars	Rs.	Rs.
Opening Balance of Debtors as per Balance sheet 01.04.2012	-	10,07,97,897
Sales as per Profit & Loss A/c 2013	-	9,77,30,840

:: 5 ::

Total		19,85,28,737
Less: Collection - Cheques and Cash		
(A) Cash from Debtors as per Assessment order	5,14,32,192	-
(B) Advance taken from Baba Trading Company as per order and Cash receipts statement	2,20,00,000	-
(C) Cheque from 3 Debtors as per order not taken by AO	4,73,31,108	-
Collections from Debtors (Working =Annexure I)	2,63,88,180	-
		14,71,51,480
Closing balance that should be		5,13,77,257
Less: Closing balance as per Balance sheet		4,93,65,705
Difference cash credit u/s.68 to be reconciled with bank and cash		20,11,552

Thus the Appellant filing the impugned appeal against addition of cash credit u/s.68 of the Income Tax Act both on Jurisdiction u/s. 143(3) and 145A on method of accounting and on Merits."

4.3. I have considered the submissions of Ld.AR and perused assessment order. The AO in the assessment order has stated that the onus lies on the assessee to file evidence establishing source of cash deposits made into the bank by providing with cash book and trade receivables, individual ledger accounts and sales accounts of all the parties. He has further stated that appellant has failed to substantiate their claim, hence, he proceeded to consider cash deposits amounting to Rs.7,26,80,135/- as unexplained cash credit. For this purpose, he has given following working:

Opening Balance of Trade Receivables	10,07,97,897
Addition: Sales during the year	9,77,30,840
Total	19,85,28,737
Less: Receivables received as stated by representative	5,14,32,192
Balance	14,70,96,545
Less: Cash receipts as stated by representative	2,20,00,000
Closing balance of Trade Receivables	12,50,96,454

AO has further stated that appellant has shown trade receivables as on 31.03.2014 at Rs.4,93,65,705/-. As per the AO, the closing balance of trade receivables as on 31.03.2014 should be at Rs.12,50,96,454/- but appellant has accounted for only Rs.4,93,65,705/-. Thus, he has held that there is a huge difference of Rs.7,57,30,749/- which indicates appellant's books of accounts have not been maintained properly and not reliable. In the circumstances, AO has considered entire cash deposits of Rs.7,26,80,135/- u/s.68 of the IT Act.

4.4. On the other hand, Ld.AR has vehemently contended that appellant had produced sales register, trade receivables on 27.12.2016, bank book, trade ledger, etc. It is further contended that AO has not rejected books of accounts, but only made passing reference on the basis of which huge addition has been made. It is stated that books of accounts have been produced before the AO and AO had also issued notice u/s. 133(6) to various parties who had confirmed the transactions with the appellant company. It is also stated that AO has verified the transaction held between appellant company and M/s.Baba Trading Company of Coimbatore and same is found in order insofar as cash received by the appellant company from M/s.Sri Baba Trading Company on various dates. Ld.AR has also stated that all the explanations with regard to source of cash deposits along with the evidence have been filed before the AO and substantiated appellant's claim. However, it is said that AO has conveniently ignored appellant's explanations and evidences and proceeded to consider cash deposits made in the bank

:: 6 ::

account as unexplained cash credits which is against the provisions of Income Tax Act and accountancy principles.

4.5. The facts emerging out of the arguments of the Ld.AR and the findings of the AO are that cash deposits have been made in the appellant's bank account held in Karur Vysya Bank vide account no.1233223000000021. It has been explained by the Ld.AR that the source of deposits are on account of cash received from trade receivables. In other words, cash has been received from debtors and deposited the same in the bank account which amounts to Rs.5,14,32,192/-. It is further explained by the Ld.AR that an amount of Rs.2,20,00,000/- has been received by way of cash from Sri Baba Trading Company which has been verified and found in order by the AO. It appears that the contention of the Ld.AR of receiving cash from debtors amounting to Rs.5,14,32,192/- has not been accepted by the AO holding same has not been substantiated. In this regard, I have found in para 1 of page 3 of the assessment order that AO is admitted to have been submitted sales ledger and trade receivables on 29.12.2016. However, on page 3 of assessment order, AO is found to have stated that copy of sale account ledger of other parties have not been submitted which is contradictory to his own admission of producing sales ledger and trade receivables account. Therefore, in my considered opinion, there is no basis to considered cash deposits u/s.68 as appellant has substantiated the source of cash deposits made in the bank account. In my considered opinion, appellant has explained entire cash deposits found in the bank account by way of producing evidences before the AO. in the circumstances, AO is directed to delete the addition made u/s.68. The grounds taken by the appellant are allowed.

4.6. During the appellate proceedings, Ld.AR has filed reconciliation statement with regard to trade receivables which is given as under:

Particulars	Rs.	Rs.
Opening Balance of Debtors as per Balance sheet 01.04.2012	-	10,07,97,897
Sales as per Profit & Loss A/c 2013	-	9,77,30,840
Total		19,85,28,737
Less: Collection - Cheques and Cash		
(A) Cash from Debtors as per Assessment order	5,14,32,192	-
(B) Advance taken from Baba Trading Company as per order and Cash receipts statement	2,20,00,000	-
(C) Cheque from 3 Debtors as per order not taken by AO	4,73,31,108	-
Collections from Debtors (Working =Annexure I)	2,63,88,180	-
		14,71,51,480
Closing balance that should be		5,13,77,257
Less: Closing balance as per Balance sheet		4,93,65,705
Difference cash credit u/s.68 to be reconciled with bank and cash		20,11,552

Ld.AR has reconciled trade receivables herein above and found a difference of Rs.20,11,552/- which is yet to be reconciled. It is stated that due to paucity of time the said difference could not be reconciled which may be confirmed even though, in principle; it is not conceded. On the other hand, I have perused the working of the AO on this point who has ignored two major items shown by the Ld.AR in his working i.e., cheques from 3 debtors amounting to Rs.4,73,31,108/- and Collections from debtors of Rs.2,63,88,180/-. These two items put together comes to Rs.7,37,19,288/- which is exactly the difference worked out by the AO. In my opinion, the AO's approach is wrong and receivables in cheques have to be reduced in arriving a correct closing balance of trade receivables. Therefore, I find force and merits in the reconciliation statements submitted by the Ld.AR. However, the difference amount of Rs.20,11,552/- which could

:: 7 ::

not be reconciled has to be taxed. Accordingly, the amount of Rs.20,11,552/- is sustained.

In the result, appeal is PARTLY ALLOWED.

5. The Ld.DR, submitted that the Ld.CIT(A) erred in deleting addition made by the AO towards cash deposits in M/s.KVB u/s.68 of the Act, without appreciating the fact that the assessee could not furnish any reconciliation in respect of trade receivables. The Ld.DR further referring to opening balance of trade receivables as on 01.04.2012 & closing balance of trade receivables as on 31.03.2013 submitted that if you go by the analysis made by the AO, the claim of the assessee that it has received cash from various parties, is unproved. The AO had also analyzed ledger extract of M/s.Sri Baba Trading Co., and rejected the explanation of the assessee on the ground that cash receipt from said party does not match with cash deposits into bank account. The Ld.CIT(A) without appreciating the fact simply accepted reconciliation filed by the assessee and allowed relief.

6. The Ld.Counsel for the assessee supporting the order of the Ld.CIT(A) submitted that the assessee has filed reconciliation statement explaining cash receipts from various parties including M/s.Sri Baba Trading Co. The assessee had also explained how the AO fundamentally went wrong in arriving at closing balance of trade receivables and as per which, the AO had considered only opening balance of trade receivables as on 01.04.2012 and closing balance of trade receivables as on 31.03.2013 by taking figures from the balance sheet without going into the individual ledger account

:: 8 ::

copies in respect of parties which resulted in arriving at wrong conclusion that there is a difference between trade receivables. But, fact remains that while arriving at closing balance of trade receivables, the AO had omitted to consider sales made for FY 2013-14. The assessee has reconciled the figures and explained before the Ld.CIT(A). The Ld.CIT(A) after considering relevant facts has rightly deleted additions made by the AO and their orders should be upheld.

7. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The sole basis for the AO to make additions towards cash deposits to bank account maintained with M/s.KVB u/s.68 of the Act, is self-reconciliation made by the AO towards trade receivables appeared in the financial statement of the assessee. The AO had rejected reconciliation statement filed by the assessee in toto only for the reason that as per schedule of trade receivables submitted by the assessee, the opening balance of trade receivables as on 01.04.2012 was at Rs.10,07,97,897/- and closing balance of trade receivables as on 31.03.2013 was at Rs.4,93,65,705/-. From the above, the AO had considered three parties accounts where the closing balance as on 31.03.2013 becomes '**zero**' and analyzed said party's ledger account and come to the conclusion that so called claim of the assessee that it has received cash from trade receivables is not substantiated, because, from those three parties, the assessee has received amount in cheques.

:: 9 ::

8. We have gone through the reasons given by the AO to make addition towards cash deposits u/s.68 of the Act, and we ourselves do not subscribe to the reasons given by the AO for the simple reason that while arriving at reconciliation of trade receivables, the AO had committed a fundamental error in considering only opening balance and closing balance of trade receivables from the financial statement filed by the assessee leaving behind sales made during the FY 2013-14, which resulted in excess closing balance of trade receivables when compared to actual trade receivables shown by the assessee in its books of accounts. If you consider opening balance of trade receivables as on 01.04.2012 **plus** sales achieved during the FY 2013-14 **minus** closing balance of trade receivables as on 31.03.2013, it appears that the assessee had received a sum of Rs.14,71,51,480/- from trade receivables. Further, out of said sum, the assessee has received a sum of Rs.5,14,32,192/- in cash from trade receivables and further, a sum of Rs.2.20 Crs. advance from M/s.Sri Baba Trading Co. The assessee had also received a sum of Rs.4,73,31,108/- from three parties through proper banking channels. If you consider reconciliation filed by the assessee, we find that there is no difference between closing balance of trade receivables shown in the balance sheet as on 31.03.2013. From the above, it is very clear that claim of cash receipt from trade receivables is backed with various evidences, including confirmations from the parties. Therefore, we are of the considered view

:: 10 ::

that the AO is completely erred in rejecting arguments of the assessee in so far as cash receipt of Rs.5,14,32,192/- from trade receivables.

9. As regards advance received from M/s.Sri Baba Trading Co., the AO is not in dispute with regard to the fact that the assessee has filed confirmation from the parties to substantiate its claim. In fact, the AO never disputed the fact that the assessee has filed ledger extract along with confirmation to prove claim of advance received from M/s.Sri Baba Trading Co. However, the AO has rejected the explanation of the assessee only on the ground that cash received on various dates, is not matching with cash deposits into bank account. In our considered view, the AO failed to understand the issue because, it is not necessary to match dates of cash receipts from party to date of cash deposit into bank account when the assessee has furnished cash books to explain the receipt of the cash from various parties and deposit of cash to bank account. In this case, the AO misunderstood the issue without considering cash book maintained by the assessee and come to the conclusion that cash received from M/s.Sri Baba Trading Co., cannot be source for cash deposits found in bank account maintained with M/s.KVB. Therefore, we are of the considered view that the AO is completely erred in rejecting source for cash deposits from M/s.Sri Baba Trading Co. To sum up, we are of the considered view that the assessee is able to explain source for cash deposits found in bank account maintained with M/s.KVB. The Ld.CIT(A) after considering relevant facts has rightly deleted the additions made by the AO towards cash deposits

:: 11 ::

u/s.68 of the Act, and thus, we are inclined to uphold the findings of Ld.CIT(A) and dismiss the appeal filed by the Revenue.

10. In the result, appeal filed by the Revenue in ITA No.1514/Chny/2018 for the AY 2014-15, is dismissed.

Order pronounced on the 08th day of March, 2023, in Chennai.

Sd/-

(वी. दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 08th March, 2023.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)

Sd/-

(मंजूनाथा.जी)

(MANJUNATHA.G)

लेखा सदस्य/**ACCOUNTANT MEMBER**

4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF