

**THE INCOME TAX APPELLATE TRIBUNAL
DELHIBENCH 'C', NEW DELHI**

Before Sh. C. M. Garg, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 4260/Del/2018 : Asstt. Year: 2013-14

Income Tax Officer, Ward-12(3), New Delhi	Vs.	Integra Telecommunication & Software Pvt. Ltd., 108/9, Kishangarh, Vasant Kunj, New Delhi-110070
(APPELLANT)		(RESPONDENT)
PAN No. AAACI9473Q		

**Assessee by : Sh. Ved Jain, Adv. &
Ms. Supriya Mehta, CA
Revenue by : Sh. Anuj Garg, Sr. DR**

Date of Hearing: 16.02.2023

Date of Pronouncement: 09.05.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by Revenue against the order of Id. CIT(A)-4, New Delhi dated 28.03.2018.

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

"1. On the facts and circumstances of the case and in law, Ld. CIT(A) has erred in deleting the addition of Rs. 93,23,000/- on account of unexplained cash deposit u/s 68 of the IT. Act, 1961 by ignoring the fact that the assessee company had failed to produce/ furnish the evidence which can substantiate the source of cash deposits.

2. On the facts and circumstances of the case and in law, Ld. CIT(A) has erred in deleting the addition of Rs. 1,51,28,613/- on account of bogus creditors by ignoring the fact that the assessee company had

failed to comply with the opportunities to provide the complete details and produce the creditors and also failed to produce the books of account before the AO during the course of assessment proceeding especially when the notices u/s 133(6) of the Act issued to the creditors remained uncomplied with.”

Cash Deposits:

3. We have examined the issue independently. The total cash deposits as per the records was Rs.93,23,000/- and the cash withdrawn was Rs.44,15,000/-. From the perusal of the bank statement, we find that there were no transactions of similar amounts transferred/deposited or transfer to entities via RTGS or by cash as alleged by the Assessing Officer. The remaining amount of Rs.49,08,000/- which was received from debtors on account of sale of goods/products for which the receipts are received in cash. The assessee submitted confirmations from the debtors which have been duly perused by the Id. CIT(A) and gave relief after accepting the confirmations and also holding that the AO was not justified in observing that the assessee did not submit any details of cash sale/receipt from the debtors whereas the record shows otherwise. Hence, we decline to interfere with the order of the Id. CIT(A) in deleting the addition.

Un-explained Sundry Creditors:

4. The AO held that Sundry Creditors has been increased from Rs.12,43,17,081/- in the previous year to Rs.13,94,45,694/- in the current year. The assessee company was asked specifically to furnish the detailed justification alongwith supporting evidences i.e. copy of confirmed account, name & address and

copy of return of income and copy of bank statement showing the relevant transaction:-

- (a) Questionnaire dated 16/10/2015 asking narration of credit entries.
- (b) Note Sheet Entry dated 18/01/2016.
- (c) Note Sheet Entry dated 03/02/2016.
- (d) Note Sheet Entry dated 01/03/2016 - asking source of cash deposits.
- (e) Show Cause Notice u/s 142(1) dated 14/03/2016.

5. Final show cause notice served upon the assessee is reproduced below:



*Office of the Income Tax Officer,
Ward-12(3), Room No. 420-B, C. R. Building,
I. P. Estate, New Delhi -110002.*

TIME BARRING MATTER

FINAL OPPORTUNITY

F. No. ITO/Ward-12(3)/75/2015-16/

Dated: 14.03.2016

PAN No. AAACI9473Q

*To
The Principal Officer
M/s INTEGRA TELECOMMUNICATION & SOFTWARE PVT. LTD.,
2281, SECTOR-D, POCKET-2,
VASANT KUNJ, NEW DELHI - 110070.*

Sir/Madam,

In connection with Regular Assessment for the AY 2013-14, you are required to: -

Produce or cause to be produced before me at my office at Room No.420-B, Central Revenue Building, I.P. Estate, New Delhi-110002, on 18.03.2016 at 11:30 AM the accounts and / or documents specified below/overleaf.

Yours faithfully,

Sd/-

(C.L. MEENA)
Income Tax Officer
Ward-12 (3), New Delhi

Particulars of Accounts and / or documents required:

Proceedings u/s 143(2) of the Income Tax Act 1961 for the AY 2013-14 in the case of M/s Integra Telecommunication & Software Ltd., calling for information u/s 142(1) of the Income Tax Act 1961 - Reg.

2. *With reference to the scrutiny proceedings in your case for the AY 2013-14 you are hereby required to file the following information:-*

(a) *It is seen from the bank statement that cash deposits of Rs.93,23,000/- has been made during the year under consideration. Please intimate the source of these cash deposits with supporting evidence. Also show cause why in case of non compliance this time, the same should not be treated as un-explained cash deposits and added to your income.*

(b) *It is brought to your notice that Notice u/s 133(6) of the IT Act has already been sent to all the parties / creditors but no confirmation has been received till date. You are required to produce all the parties alongwith confirmed copy of account and relevant supporting evidence. Also show cause why in case of failure, it is presumed that all the creditors are bogus and why the amount of these creditors should not be added to your income?*

(c) *It is brought to your notice that Notice u/s 133(6) of the IT Act has already been sent to all the parties from whom you have made the purchases but no confirmation has been received till date. You are required to produce all the parties alongwith confirmed copy of account and relevant bills / voucher. Also show cause why in case of failure, it is not presumed that all the purchases are bogus and why the amount of these creditors should not be added to your income?*

(d) *It is seen from profit and loss account that fixed assets amounting Rs 34,84,000/- has been added and assets worth Rs.2,00,77,000/- has been sold during the year under consideration. Please furnish complete details of assets purchased and sold with relevant supporting bills / vouchers. You are also required to show cause as to why the purchases of fixed assets should not be*

treated as bogus and depreciation claimed should not be disallowed and added back to your income?

3. *Produce Books of accounts along with vouchers for expenses debited to P&L a/c. Your case is fixed for hearing on 18.03.2015 at 11:30 AM. It is requested that the above details/documents/information should be filed on the appointed date.*

*Sd/-
(C. L. MEENA)
Income Tax Officer,
Ward-12(3), New Delhi*

6. The AO held that the Id. AR did not appear alongwith the desired details on the designated date, instead he appeared on a subsequent date, that too with partial details. The AO held that inspite of several adjournments sought and granted, the AR of the assessee has not filed relevant details asked for during earlier hearings as well as in the questionnaire.

7. The AO during the hearing conducted on 01.03.2016, has inquired about the sundry creditors. The observation of the AO on this issue is as under:

"On the given date i.e. 07.03.2016 no details were filed and no request for adjournment made on 14.03.2016, the Id. AR of the assessee appeared without any details. The Id. AR of the assessee company was appraised of the fact that neither of the Creditors has furnished the desired confirmation in response to the notice issued u/s 133(6) of the IT Act, nor any details have been filed by the Assessee Company. On 16.03.2016, final show cause containing the proposed additions was served upon the Id. AR of the Assessee Company as well as on the Assessee fixing the date of hearing on 18.03.2016. On 18.03.2016 no details filed and no request for adjournment made knowing the fact that this is a time barring matter and final show cause notice for 18.03.2016 have already been served upon the Assessee by the AO. However on 21.03.2016 Shri P.K. Aggarwal, CA and Id. AR of the Assessee appeared and filed reply dated 18.03.2016 which was examined and considered. The fact that the details you are filing today, are incomplete and no filed the manner as asked for and required for finalizing the case is brought to the

notice of the Id. AR of the assessee vide Note Sheet entry dated 21.03.2016. In its submission the assessee has again asked for 2-3 days more for submitting remaining details. It is pertinent to mention here that the assessee has already taken the benefit of from 18.03.2016 to 21.03.2016 and again asking for more time. The assessee company has seen provided more than sufficient opportunities since last year and more but it has totally failed even in complying the statutory notices. The assessee company is deliberately delaying the assessment for the reasons best known to it. Logically even if the assessee was in need of more time, it should have appeared on 18.03.2016 i.e. given adjournment and should have asked for more time. It has been noticed during the assessment proceedings that the assessee company is habitual in not providing the information which are very crucial for completion / deciding the assessment proceedings. However, notwithstanding the above, the undersigned has awaited the assessee company till 6.00 p.m. or 23.03.2016. As usual the assessee company has filed no details.

3.5 Scanned Sample copy of Notice issued u/s 133(6) of the IT Act is placed below:



*Office of the Income Tax Officer,
Ward-12(3), Room No. 420-B, C. R. Building,
I. P. Estate, New Delhi -110002.*

F. No. ITO/Ward-12(3)/75/2015-16/

Dated: 23.02.2016

*To
The Principal Officer
M/s Aashee Infotech Ltd.,
308, Lusa Tower, Azadpur,
DELHI - 110033.*

Sir,

Sub: Calling for information u/s 133(6) of the Income Tax Act, 1961 in the case of M/s Inegra Telecommunication & Software Ltd. (PAN: AAAC1947Q) A.Y. 2013-14 – reg.

The assessment proceedings are pending in the above mentioned case and you were required to file the following information or before 08.02.2016 vide

notice u/s 133(6) dated 29.01.2016. However, till date the required details are not filed. You are once again requested to complete the details by 29.02.2016, in the same manner as asked for.

Confirmed copy of ledger Account of M/s Inegra Telecommunication & Software Ltd. in you books of accounts for the period 01.04.2012 to 31.03.2013.

Copies of bills raised by you on the above said party.

Please furnish details of goods services sold to M/s Inegra Telecommunication & Software Ltd.

Also provide details of purchase of the goods/services which were sold to M/s Inegra Telecommunication & Software Ltd. along with copies of you purchase bills.

Please furnish details of payment received from M/s Inegra Telecommunication & Software Ltd. against sales made by you during the period 01.04.2012 to 31.03.2013. Copy of ITR Acknowledge for the period A.Y. 2013-14.

The information is required u/s 133(6) of the Income Tax Act, 1961. In case of non-compliance, penalty of Rs.10,000/- u/s 272A of the Income Tax Act, 1961 will be imposed.

Yours faithfully,

Sd/-

*(C.L. MEENA)
Income Tax Officer
Ward-12 (3), New Delhi*

8. After receiving the reply, the AO held that,

"3.6 It is seen from the details filed by the assessee that creditors of Rs.12,43,17,081/- shown as on 31.03.2012 have been increased to Rs.13,94,45,694/- (increase of Rs.1,51,28,613/-). To verify the genuineness of the creditors, notices u/s 133(6) of the Income Tax Act, 1961 were issued to the entities asking them to file the confirmed copy of account and other information but neither the confirmed copy of account

nor any other supporting evidence filed till the passing of assessment order. As discussed above assessee was asked time and again during the course of assessment proceeding to complete the details or to produce the creditors but the assessee has neither filed any details / produced any of the creditors no co-operated in this regard. Keeping in view, the above facts and time barring of the case, I hereby consider the difference of the creditors increased during the year under consideration as un-explained and hereby added back to the income of the assessee to the tune of Rs 1,51,28,613/-. I am satisfied that the assessee has concealed its income to the tune of Rs 1,51,28,613/- by furnishing inaccurate particulars of its income in contravention to the provisions of section 271(1)(c) of the IT Act."

9. Aggrieved with the said addition of Rs.1.51 Cr. made by the AO on account of sundry creditors, the assessee filed appeal before the Id. CIT(A) who deleted the addition.

10. Aggrieved, the Revenue filed appeal before us.

11. Heard the arguments of both the parties and perused the material available on record.

12. The AO in the assessment order has made addition of Rs. 1,51,28,613/- on account of difference in the opening and closing creditors of Rs. 12,43,17,081/- and Rs. 13,94,45,694/- respectively appearing in the balance sheet of the appellant company. The AO has made the addition on the ground that the appellant has not submitted any detail even after several opportunities being given in this regard. The AO has also stated that the notices under section 133(6) were issued to the creditors however no response has been received in this regard. In order to verify the facts pertaining to the submissions of the assessee viz.

a. Ledger copies of purchases account,

- b. Balance Confirmation from all the suppliers,
- c. Party Wise purchases during the year along with TIN Number of parties,
- d. Invoices of a 45 purchases amounting Rs 13,68,92,430/-,
- e. VAT returns filed during the relevant year,
- f. VAT Assessment order,

the Id. CIT(A) called the assessment records from the AO in which above documents were found to be present.

13. The Id. CIT(A) held that on perusal of the submissions of the appellant and case records, it is noticed that the appellant has submitted details with respect to its purchases during the year along with confirmation from the suppliers. It was held that the AO in the assessment has not rejected the books of accounts of the appellant, thereby the book results/ gross profit declared has been accepted. No defect has been pointed out by the AO in any of the details submitted. Sale, purchase, stock records, debtors and the expenses debited in the profit and loss a/c were examined and accepted by the AO. It is also notice that assessment under VAT has also been completed in the case of the appellant for the period under consideration wherein no adverse inference has been drawn against its sales and purchases.

14. In absence of any discrepancy pointed by the AO, the Id. CIT(A) held that the increase in creditors cannot held to be not genuine only on the ground that the creditors have not complied to the notice issued under section 133(6) that too when the appellant itself has submitted all the confirmations from its vendors along with purchase invoices. In the background of

these established facts, we decline to interfere with the order of the Id. CIT(A).

15. In the result, the appeal of the Revenue is dismissed.
Order Pronounced in the Open Court on 09/05/2023.

Sd/-

(C. M. Garg)
Judicial Member

Dated: 09/05/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR