

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'E': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**

**ITA No.1083/DEL/2018
[Assessment Year: 2014-15]**

Mohd. Tarique, C/o-Vinod Kumar Goel, 282, Boundary Road, Civil Lines, Meerut	Vs	ITO, Ward-1(4), Meerut,
PAN-ADDPT9350Q		
Assessee		Revenue

Assessee by	Sh. G.S. Kohli, CA
Revenue by	Ms. Smita Singh, Sr. DR

Date of Hearing	16.08.2023
Date of Pronouncement	16.08.2023

ORDER

PER SHAMIM YAHYA, AM,

This appeal by the assessee is directed against the order of the Ld. CIT(A), Meerut, dated 29.11.2017 pertaining to Assessment Year 2014-15.

2. The grounds of appeal reads as under:-

“1. That the A.O. as well as CIT(A) has not justified in taken net profit rate @ 5%, however in earlier year net profit rate as under:-

A. Y.	Net Profit/Gross Sales	Rate of N.P.
2012-13	5,95,570/- / 2,30,73,831/-	2.58%
2013-14	4,51,020/- / 1,78,11,984/-	2.53%
2015-16	3,62,240/- / 97,22,976/-	3.72%

The CIT(A) also ignored the Hon'ble I.T.A.T Judgment in the case of Sh. Dhoom Singh in ITA No.1588/Del/2017.”

3. The assessee has also filed an addition ground which reads as under:-

“On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in sustaining the addition of Rs.2,15,64,373/- on account of sundry creditors made by the AO u/s 144 of the Income Tax Act, 1961.”

3. Brief facts of the case are that in this case, the order was passed u/s 144 of the Income Tax Act, 1961. The AO has passed a very short order by making following additions:-

1. As per ITR you have shown Sales/Gross receipts amounting Rs.1,54,08,268/- and the net income shown as Rs.4,13,060/- which is 2.68%, which is very low as per your trade and other concerns of same trade in the Meerut. You have shown purchases of Rs.1,11,84,057/- and shown outstanding balance connected with Sundry creditors of Rs.2,15,64,373/- which is very unusual. You are show caused than N.P without any evidences of business documents, the N.P result is taken as 5%, also till date Audit report is not furnished by you." Then the net profit will be amounting of Rs.7,70,414/- instead of Rs.4,13,060/-. Therefore addition of Rs.3,57,354/- is proposed

(Proposed Addition of Rs.3,57,354/-)

2. You have claimed deduction u/s 1,00,000/- u/s chapter VI-A of the I.T. Act, but without any evidences the deductions are disallowed and added back in the income. Therefore, you are show caused that why not the addition of Rs.1,00,000/- is made due to non furnishing of documents. It is proposed.

(Proposed Addition of Rs.1,00,000/-)

3. As per ITR sundry creditors without establishing the identification, credit-worthiness, genuineness of the transaction I have compelled to disallow the creditors amounting of Rs.2,15,64,373/- and it is proposed addition of Rs.2,15,64.373 as other source of income.

(Proposed Addition of Rs.2,15,64,373/-)

If you want to comply then the date given for reply in 27/12/2016 at 11.00 A.M. Please note that if no reply is filed

then it will be treated as you have nothing to say in this regard and you accept these results as proposed.

The assessee doesn't comply the show cause, therefore, I am compelled to proceed further to make assessment as per show cause notice us 144

Computation of incomes

Income as per ITR:	Rs.4, 13,0607-
Add as per para 1:	Rs.3,57,354/-
Add as per para 2:-	Rs.1,00,000/-
Add as per para 3:	Rs.2,15,64,373/-
Total Taxable Income : -	Rs.2,24,34,787/-

The assessment is completed at the income of Rs.2,24,34,787/-

4. Against the above order, the assessee appealed before the Ld. CIT(A). The Ld. CIT(A) deleted the additions on account of LIC Premium, however, he upheld the additions on account of sundry creditors. However, in the concluding portion, he has passed conditional order, which reads as under:-

“The books of accounts are claimed to be audited by a firm of chartered accountants but no effort has been made to produce the books and to get the trading results of the year verified. The assessee has also not brought any evidence on record to show that the trading results of the preceding year have been accepted under section 143(3) of the IT Act and the finding of the AO is upheld but since addition of sundry creditors has been made no separate addition on account of GP is being upheld as of now, but in case the assessee gets relief on account of sundry creditors then the addition made by the AO will stand upheld.”

5. Against the above order, the assessee is in appeal before the Tribunal.

6. We have heard both the parties and perused the records. We find that the Ld. CIT(A) has passed conditional order, which is not sustainable in law. Hence, in the interest of justice, we remit the issue to the file of the Ld. CIT(A) to pass appropriate and speaking order as per law.

7. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 16th August, 2023.

Sd/-
[CHANDRA MOHAN GARG]
JUDICIAL MEMBER
Delhi; 16.08.2023.

Shekhar,

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi