

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

**Before Sh. C. M. Garg, Judicial Member**

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

**ITA No. 972/Del/2021 : Asstt. Year : 2013-14**

Mr. Vilayil Satyan Pillai, F-13, 3 <sup>rd</sup> Floor, Near Delhi Police Society, Janta Garden, Pandav Nagar, Patparganj Delhi-110091 (APPELLANT)	Vs	Income Tax Officer, Ward-60(5), New Delhi (RESPONDENT)
<b>PAN No. BIFPP2903R</b>		

**Assessee by : Sh. Kishan Kumar Gupta, CA  
Revenue by : Sh. Amit Katoch, Sr. DR**

<b>Date of Hearing: 17.07.2023</b>	<b>Date of Pronouncement: 16.10.2023</b>
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**ORDER**

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

The present appeal has been filed by the assessee against the order of Id. CIT(A)-38, New Delhi dated 15.04.2019.

2. Following grounds have been raised by the assessee:

*"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law as well as on facts while confirming the actions of Learned AO in making aggregate additions of Rs. 6,76,14,124/- (Rs. 1,01,51,341 + Rs. 5,74,62,873) on the alleged ground that Sundry Creditors were not proved as genuine, without realized the fact that the details of purchases were verified and accepted as genuine expenditure by Ld. AO during the course of assessment proceeding u/s 143(3) of the Income tax act, 1961.*

*2. That the Ld. CIT(A) has erred in law as well as on facts on confirming the addition of Rs.2,11,500/- on account of difference in the closing balance as per the confirmation received from a party and assessee's books of account, while the difference amounting to Rs.2,11,500/- was nothing, but only due to excess amount as per confirmation received from the party against the notices u/s 133(6) of the Act.*

3. That the Ld. CIT(A) also failed to appreciate the facts in point no.2 of grounds of appeal in his order, that was appealed as under.

"A.O has erred in law as well as on facts by not taking the Purchase bill while doubting the genuineness of outstanding balance of creditors"

4. That having regard to relied on various cited case law, Ld. CIT(A) has been erred in law and on facts in confirming the additions made by Ld.AO under section 68 of the act, alleged the unconfirmed sundry creditors not proven the genuineness of the transaction, while the provisions of section 68 are not attracted to amounts representing purchases made on credit.

5. That the Ld. CIT(A) has been erred after simply relied on report of inspector mentioned that no such party was available at the given addresses, without being relied on other evidences to verify the existence, genuineness and creditworthiness of the parties and without appreciated the other facts of parties like opening balances, nature of regular transaction in current year and status of balances in the next year etc."

### **Sundry Creditor:**

3. The AO made addition on account of sundry creditor of Rs.6,80,14,124/-. The AO issued notices u/s 133(6) of the Income Tax Act, 1961 to 12 parties wherein all the addresses (the sundry creditors) found to be non-existing and the notices have been received unserved.

4. Before the Id. CIT(A), the assessee submitted ledger alongwith vouchers in support of his claim. The Id. CIT(A) held that the assessee did not prove the purchases as genuine and hence affirmed the action of Assessing Officer.

5. We have gone through the balance sheet of the assessee and also the proprietary concern, the same is reproduced as under:

• **Balance sheet of the assessee**

M/S VILAYIL SATYAN PILLAI PAN NO.-BIFPP2903R BALANCE SHEET AS ON 31.03.2013				
LIABILITIES	AMOUNT	AMOUNT	ASSETS	AMOUNT
OWNER'S CAPITAL				
OPENING CAPITAL	-			
ADD:- FRESH INTRODUCTION	5,31,185			
ADD:- NET PROFIT DURING THE YEAR	4,52,009			
LESS:- DRAWING MADE DURING THE YEAR	1,97,082			
		<b>7,86,112</b>		
DEBTORS			SUNDRY DEBTORS	
M/S P.I TRADING CO.	7,41,35,749		M/S P.I TRADING CO.	
M/S SHIVA SALES	81,07,643		M/S SHIVA SALES	
		<b>8,22,43,392</b>		<b>7,92,35,500</b>
CURRENT LIABILITIES			CLOSING STOCK	
DEBTORS PAYABLES	54,168		INVENTORIES OR STOCKS	
		<b>54,168</b>		<b>31,68,622</b>
PROVISIONS			CASH AND BANK BALANCES	
PROVISION FOR TAX	79,989		CASH IN HAND	2,08,339
		<b>79,989</b>	CASH AT BANK	5,51,200
<b>TOTAL</b>		<b>8,31,63,661</b>	<b>TOTAL</b>	<b>8,31,63,661</b>

FOR RAMAN KUMAR & ASSOCIATES  
CHARTERED ACCOUNTANTS  
FRN-021214N  
SD/-  
CA RAMAN KUMAR MALHOTRA  
MEM.NO.-085958  
PLACE-NEW DELHI  
DATE:-25/09/2013

SD/-  
MR.VILAYIL SATYAN PILLAI


• **P&L Account of the assessee**

M/S VILAYIL SATYAN PILLAI PAN NO.-BIFPP2903R TRADING AND PROFIT & LOSS ACCOUNT AS ON 31.03.2013			
PARTICULARS	AMOUNT	PARTICULARS	AMOUNT
TO OPENING STOCK	-	BY SALE OF GOODS/TURNOVER	
TO PURCHASES		M/S P.I TRADING CO.	
M/S P.I TRADING CO.		M/S P.I TRADING CO.	
M/S SHIVA SALES	38,65,29,925	M/S SHIVA SALES	38,89,77,385
TO FREIGHT INWARD	24,82,874	BY CLOSING STOCK	
TO GROSS PROFIT	31,33,208	TRADED GOODS	31,68,622
<b>SUB-TOTAL</b>	<b>39,21,46,007</b>	<b>SUB-TOTAL</b>	<b>39,21,46,007</b>
TO SALARIES A/C	4,56,000	BY GROSS PROFIT	31,33,208
TO STAFF WELFARE	26,580		
TO SALES PROMOTION	15,320		
TO CONVEYANCE	25,000		
TO TELEPHONE	29,390		
TO FREIGHT OUTWARD	15,88,582		
TO RENT	1,38,000		
TO AUDIT FEE	30,000		
TO OTHER EXPENSES	3,72,327		
TO NET PROFIT	4,52,009		
<b>TOTAL</b>	<b>31,33,208</b>	<b>TOTAL</b>	<b>31,33,208</b>

FOR RAMAN KUMAR & ASSOCIATES  
CHARTERED ACCOUNTANTS  
FRN-021214N  
SD/-  
CA RAMAN KUMAR MALHOTRA  
MEM.NO.-085958  
PLACE-NEW DELHI  
DATE:-25/09/2013

SD/-  
MR.VILAYIL SATYAN PILLAI

• **Balance sheet of the Proprietary concern of the assessee**

P.I. TRADING CO.		
Balance Sheet as at 31st March 2014		
Particulars	Notes	Amount
<b>LIABILITIES</b>		
Capital Account		
Proprietor's Capital Account	1	726,068
<b>Current Liabilities</b>		
Sundry Creditors	2	31,197,183
Expenses payable	3	37,739
	<b>Total Rs.</b>	<b>31,960,990</b>
<b>ASSETS</b>		
<b>Current Assets</b>		
Inventory	4	4,567,500
Trade Receivables	5	25,943,662
Cash and Bank Balances	6	501,939
Deposit, Loans and Advances	7	947,889
	<b>Total Rs.</b>	<b>31,960,990</b>
Significant Accounting Policies and Other disclosures	13	-
As per our report of even date		
For M/s. Pankaj Dalal and Company Chartered Accountants Firm Reg. No. 129623W		For P.I. Trading Co.
 CA Vikas Aggarwal No. 522569		For PI TRADING CO. w. Satyan Pillai Proprietor
		Vilayil Satyan Pillai Proprietor
Place : New Delhi Date : 30th October 2014		

• **P&L Account of the Proprietary concern of the assessee**

P.I. TRADING CO.

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Statement of Profit and Loss for the Year ending 31st March 2014

Particulars	Notes	Amount
<b>INCOME</b>		
Sale of Traded Goods	8	72,756,818
Other Income	9	12,186
	Total Rs.	<u>72,769,004</u>
<b>EXPENSES</b>		
Cost of Goods Sold	10	72,220,081
Employees Cost	11	150,000
Other Expenses	12	272,565
	Total Rs.	<u>72,642,646</u>
Significant Accounting Policies and Other disclosures as per our report of even date	13	126,358

For M/s. Pankaj Dalal and Company  
Chartered Accountants  
Firm Reg. No. 129623W



CA Vikas Aggarwal  
M.No. 522569

For P.I. Trading Co.

For PI TRADING CO.


V. Satyan Pillai

Proprietor

Vilayil Satyan Pillai  
Proprietor

Place : New Delhi  
Date : 30th October 2014

• **Balance sheet of the Proprietary concern of the assessee**

SHIVA SALES			
Balance Sheet as at 31st March 2014			
Particulars	Notes	Amount	
<b>LIABILITIES</b>			
<b>Capital Account</b>			
Proprietor's Capital Account	1	762,128	
<b>Current Liabilities</b>			
Sundry Creditors	2	84,185,850	
Expenses payable	3	43,270	
		<b>Total Rs.</b>	<b>84,991,248</b>
<b>ASSETS</b>			
<b>Current Assets</b>			
Inventories	4	282,500	
Trade Receivables	5	80,723,240	
Cash and Bank Balances	6	407,221	
Deposit, Loans and Advances	7	3,578,288	
		<b>Total Rs.</b>	<b>84,991,248</b>
<b>Significant Accounting Policies and Other disclosures</b>	12		
As per our report of even date			
For M/s. Pankaj Dalal and Company Chartered Accountants Firm Reg. No. 129623W		For Shiva Sales For SHIVA SALES <i>V. Satyan Pillai</i> Proprietor	
 CA Vikas Aggarwal M. No. 522569		Vilayil Satyan Pillai Proprietor	
Place : New Delhi Date : 30th October 2014			

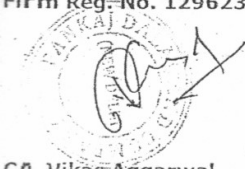
• **P&L Account of the Proprietary concern of the assessee**

SHIVA SALES

Statement of Profit and Loss for the Year ending 31st March 2014

Particulars	Notes	Amount
<b>INCOME</b>		
Sale of Traded Goods	8	275,479,881
	Total Rs.	<u>275,479,881</u>
<b>EXPENSES</b>		
Cost of Goods Sold	9	273,347,424
Employees Cost	10	124,748
Other Expenses	11	1,431,983
	Total Rs.	<u>274,904,155</u>
Significant Accounting Policies and Other disclosures As per our report of even date	12	575,726.26

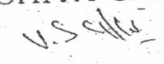
For M/s. Pankaj Dalal and Company  
Chartered Accountants  
Firm Reg. No. 129623W

  
CA Vikas Aggarwal  
M.No. 522569

Place : New Delhi  
Date : 30th October 2014

For Shiva Sales

For SHIVA SALES

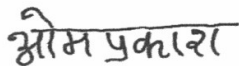
  
Proprietor

Vilayil Satyan Pillai  
Proprietor

6. Before us, the assessee at page no. 19 to 44 of paper book submitted the confirmations without quoting any PAN number or any other details. The signing authority have not been identified. From the confirmations, the signature of the persons is as under:

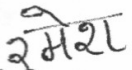
Yours faithfully,

For O.P. Overseas.



Prop.

Yours Faithfully

  
Singh Overseas

Thanking You

Yours Truly,

For J.K. Traders



Prop.

Yours Truly,

For Ess Arr Traders



Prop.

Yours faithfully,

**For Sanjh Enterprises**



**Prop.**

Yours faithfully,

For Shree Radhay Trading Co.

Sangeeta

Prop.

Yours Truly,

For Kalra Enterprises

Hareet

Prop.

7. The assessee has not submitted any details of movement of goods, receipt of the goods. No evidences to prove the genuineness of the purchases have been provided to the revenue authorities. The assessee has failed to discharge the primary onus casted upon him and hence, we decline to interfere with the order of the Id. CIT(A).

8. In the result, the appeal of the assessee on this ground is dismissed.

**Difference in the Closing Stock: (Rs.2,11,500/-)**

9. In the interest of justice, the assessee is given another opportunity to furnish reconciliation statement before the AO who shall consider the same before taking a decision.

10. In the result, the appeal of the assessee is dismissed.

Order Pronounced in the Open Court on 16/10/2023.

Sd/-

**(C. M. Garg)**  
**Judicial Member**

**Dated: 16/10/2023**

\*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**