

**IN THE INCOME TAX APPELLATE TRIBUNAL ‘E’ BENCH, MUMBAI**

**BEFORE SHRI PRASHANT MAHARISHI, AM  
AND MS. KAVITHA RAJAGOPAL, JM**

ITA No.1979/Mum/2013  
(Assessment Year: 2014-15)

DCIT, Circle-42(1)(1) Mumbai	Vs.	Hanvant Singh Jabbar Singh Ranawat C/204, Arihan Apt. Sodawala Lane, Govind Nagar, Borivali (W), Mumbai-400 092
PAN/GIR No. ADXPR 7563 F		
(Assessee)	:	(Respondent)
<b>Assessee by</b>	:	None
<b>Respondent by</b>	:	Shri P. D. Chougule
<b>Date of Hearing</b>	:	26.10.2023
<b>Date of Pronouncement</b>	:	27.10.2023

**ORDER**

**Per Kavitha Rajagopal, JM:**

This appeal has been filed by the Revenue, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2014-15.

2. As there was no representation on behalf of the assessee, we hereby proceed to decide the appeal by hearing the learned Departmental Representative ('Id.DR' for short) and on perusal of the materials available on record.

3. The Revenue has challenged the deletion of the addition of Rs.7,18,37,203/- by the Id. CIT(A) towards bogus sundry creditors as unexplained cash credit u/s. 68 of the Act made by the Id. Assessing Officer ('A.O.' for short).

4. The brief facts are that the assessee is an individual and is engaged in the business of road/civil contractors and had filed his return of income dated 24.04.2015 declaring

total income at Rs.80,77,586/- from business and profession and income from capital gains. The return was processed u/s. 143(1) of the Act and the assessee's case was selected for scrutiny under CASS notice u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The Id. A.O. then passed the assessment order u/s. 143(3) of the Act dated 28.12.2016 determining the total income at Rs.8,27,49,802/- after making a disallowance of Rs.7,46,72,216/- as unexplained credit u/s. 68 of the Act.

5. The assessee was in appeal before the Id. CIT(A) who had restricted the addition to Rs.28,35,013/- on the ground that the assessee has furnished the details of the creditors by way of additional evidence before the first appellate authority, thereby discharging his initial onus to prove the identity, creditworthiness of the creditors and genuineness of the transaction. The Id. CIT(A) restricted the addition to Rs.28,35,013/- only to the extent of 5 sundry creditors of whom the Id. A.O. is said to have received replies from for notice u/s. 133(6) of the Act.

6. The Revenue is in appeal before us, challenging the order of the Id. CIT(A) in partly deleting the addition.

7. The Id. DR for the Revenue contended that the assessee has not furnished the details of the sundry creditors before the Id. A.O. and that the assessee by way of additional evidences has produced the said details before the first appellate authority. The Id. DR further contended that the Id. A.O. was unable to produce the remand report before the Id. CIT(A). The Id. DR prayed that the matter may be remanded back to the file of the Id. A.O. for considering the additional evidences filed by the assessee.

8. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee was engaged in carrying out Civil Contract work

for semi government organization such as BMC. The ld. A.O. during the assessment proceeding observed that as per the audit report submitted by the assessee, sundry creditors for goods for A.Ys. 2013-4 and 2014-15 were Rs.9,81,98,745/- and Rs.14,44,23,875/- respectively. The assessee had shown purchases during the year under consideration at Rs.3,59,34,276/-. The ld. A.O. had sought for the details of the sundry creditors appearing in the balance sheet of the assessee. The ld. A.O. had observed that the assessee has submitted incomplete list of the sundry creditors where addresses were not given in respect of most of the creditors. It is also seen that the assessee had furnished the address of only 35 creditors out of 83 and notice u/s. 133(6) were issued to those creditors whose addresses were available before the ld. A.O. The ld. A.O. had specified that only 22 notices were served and reply was received only from 5 sundry creditors, out of which 2 creditors have confirmed for a lesser amount than that specified in the books of the assessee. The ld. A.O. made the impugned addition by treating the same as unexplained credit u/s. 68 of the Act.

9. The ld. CIT(A), on the other hand, held that the assessee by way of additional evidence had furnished the details of all the sundry creditors along with the name, address, PAN, opening balance, purchase/services during the year, amount paid and closing balance and had stated that the ld. A.O. has not disputed the purchases made by the assessee and that the payments have been made by cheque. The ld. CIT(A) has further held that the sundry creditors of earlier years has not been disputed by the ld. A.O. and that there is no dispute in the work/service carried out by the assessee. The ld. CIT(A) further held that the ld. A.O. has not rejected the books of accounts of the assessee. It is also observed that the ld. A.O. has not submitted the remand report sought for by the ld.

CIT(A) on the basis of the additional evidenced filed by the assessee. The Id. CIT(A) had restricted the addition to Rs.28,35,013/- to the extent of 5 sundry creditors whose confirmation was received by the Id. A.O. and found discrepancy in the figures mentioned in the books of the assessee.

10. From the above observation, it is evident that the assessee has not filed the documentary evidence to substantiate the identity, creditworthiness of the sundry creditors and genuineness of the transaction before the Id. A.O. during the assessment proceeding, but the same is said to have been filed before the Id. CIT(A) by way of additional evidences. It is observed that the Id. A.O. inspite of sufficient time given has not filed the remand report on the basis of the additional evidences filed by the assessee. In order to give one more opportunity to the Revenue, we hereby remand this issue back to the file of the Id. CIT(A) for the purpose of giving the Id. A.O. another opportunity to file the remand report on the basis of the additional evidence filed by the assessee after giving sufficient opportunity to both the parties.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 27.10.2023*

Sd/-

(Prashant Maharishi)  
Accountant Member

Mumbai; Dated : 27.10.2023

Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)  
Judicial Member

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai