

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI

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

ITA No.2607/Mum/2023
(Assessment Year: 2014-15)

Anil Dadarao Garad W-34, Morivali, MIDC, Ambarnath, Thane-421 501	Vs.	ITO, Ward 2(1), Kalyan
PAN/GIR No. AAZPG 8732 G		
(Assessee)	:	(Respondent)
Assessee by	:	None
Respondent by	:	Shri Manoj Kumar Sinha
Date of Hearing	:	13.11.2023
Date of Pronouncement	:	14.11.2023

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, 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 this appeal by hearing the learned Departmental Representative ('Id.DR' for short) and on perusal of the material available on record.

3. The assessee has challenged the *ex parte* order of the Id. CIT(A) upholding the addition of Rs.2,48,65,580/- towards sundry creditors u/s. 69C of the Act on the ground

that the impugned amount has already been brought to tax during A.Ys. 2009-10, 2010-11 and 2011-12 as bogus purchases.

4. The brief facts are that the assessee is an individual and had filed his return of income dated 30.11.2014, declaring total income at Rs.Nil. The assessee is an individual and a proprietor of M/s. Shivjeet Chemicals & Shivani Chemicals which is engaged in the business of trading in Dyes and Chemicals. The assessee's case was then selected for limited scrutiny through CASS for verification of "larger amount of sundry creditors".

5. The Id. Assessing Officer ('A.O.' for short) passed the assessment order dated 27.12.2016 u/s. 143(3) r.w.s. 147 of the Act determining the total income at Rs.2,48,65,580/- by making an addition/disallowance u/s. 69C of the Act towards purchases/expenses from various sundry creditors whose identity and creditworthiness and the genuineness of the transaction has not been proved by the assessee.

6. Aggrieved the assessee was in appeal before the Id. CIT(A) who vide an *ex parte* order upheld the addition made by the Id. A.O. on the ground that the assessee has failed to discharge the initial onus casted upon him.

7. The assessee is in appeal before us challenging the order of the Id. CIT(A).

8. We have heard the learned Departmental Representative ('Id.DR' for short) and perused the materials available on record. It is observed that the Id. A.O. has issued notice u/s. 133(6) of the Act to the various sundry creditors shown in the balance sheet of the assessee aggregating to Rs.2,55,34,223/-. It is evidenced that only 5 sundry creditors

have replied and furnished confirmation amounting to Rs.6,68,648/-. The notices to other parties were returned as 'unserved' and the assessee was also asked to produce the creditors before the Id. A.O. The Id. A.O. then made the impugned addition after adjusting an amount of Rs.6,68,643/- to the extent of the confirmation received from 5 parties. Even before the first appellate authority the assessee has not proved the identity, creditworthiness of the parties and the genuineness of the transaction as the assessee remained *ex parte* before the Id. CIT(A).

9. From the above observation, we deem it fit to provide the assessee with another opportunity to establish his claim before the Id. A.O. as to the identity and creditworthiness of the sundry creditors reflected in the books of accounts of the assessee and also the genuineness of the said transaction. The assessee is also directed to furnish the documentary evidences in support of his claim that the impugned addition was already added during A.Ys. 2009-10, 2010-11 and 2011-12. The Id. A.O. is directed to decide this issue afresh on the merits of the case on the basis of the assessee's submission and evidences which is to be furnished within 90 days of the receipt of this order. We, therefore, remand this issue back to the file of the Id. A.O.

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

Order pronounced in the open court on 14.11.2023

Sd/-

(Prashant Maharishi)
Accountant Member

Mumbai; Dated : 14.11.2023
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