

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 164/Asr/2023
Assessment Year: 2014-15**

Income Tax Officer, Ward 1(1), Jalandhar (Appellant)	Vs.	Sh, Anil Kumar Wason, C.B.Building, Opp. Sky Lark Hotel, Jalandhar. PAN: AAOPW5998H (Respondent)
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Appellant by	None (Written Submission)
Respondent by	Smt. Baljeet Kaur, CIT DR

Date of Hearing	31.10.2023
Date of Pronouncement	09.11.2023

ORDER

Per: Anikesh Banerjee, JM:

The instant appeal of the Revenue is filed against the order of the Id. Commissioner of Income Tax (Appeals), NFAC, Delhi, [in brevity the 'CIT (A)'], order passed u/s 250 of the Income Tax Act 1961, [in brevity 'the Act'] for A.Y. 2014-15. The impugned order was emanated from the order of the Id. ITO, Ward 1(1), Jalandhar [in brevity 'the AO'] order passed u/s 143(3) of the Act.

2. The assessee has taken the following grounds:

- “1. Whether on the facts and circumstances of the case and in law, the ld. CIT(A), National Faceless Appeal Centre (NFAC) is justified in deleting the addition amounting to Rs. 5,68,93,270/- despite the fact that the assessee is failed to submit any genuine documentary evidence to prove genuineness and credit worthiness of the creditors?*
- 2. Whether on the facts and circumstances of the case and in law, the ld. CIT(A), NFAC is justified in considering additional documents as submitted by the assessee, despite the fact that the assessee does not satisfy the conditions laid down under rule 46A.*
- 3. That it is prayed that the order of the ld. NFAC be set aside and that of the Assessing Officer restored.*
- 4. That the appellant requests for leave to add or amend or alter the grounds of appeal before the appeal is heard and disposed of.”*

3. The brief fact of the case is that the assessee is individual, engaged in the business of Trading of Chemical under the name and style of M/s. Amogh Enterprises. The assessee filed return amount of Rs.4,25,390/-. By invoking provisions of section 143(2), notice was issued by the ld. AO. In scrutiny assessment, assessee filed relevant documents before the ld. AO specially all the Sundry Creditors of the assessee amounts to Rs.5,68,93,270/-. The assessment was completed u/s. 143(3). The ld. AO made an addition amount of Rs.5,68.93,270/-

with the total income of the assessee amount to Rs.4.25.990/-, which works out the total income amount to Rs.5,73,19,230/-. Aggrieved Assessee filed an appeal before the Ld. CIT(A). The ld. CIT(A) accepted the additional evidence by invoking the Rule 46A of the Income Tax Rules 1962. After considering the report from ld. AO. The ld. CIT(A) quashed the addition and deleted amount of Rs.5,68,93,270/-. Being aggrieved on the appeal order, the revenue filed appeal before us.

4. The appeal was called for hearing. None was present on behalf of the assessee. On perusal of record, we find that the ld. AR for assessee requested to proceed the hearing on the basis of the written submissions filed before the bench and revenue. Accordingly, we proceed to the disposal of appeal *ex-parte* quo for assessee after hearing the ld. DR.

5. The ld. DR vehemently argued and filed the submission which is kept in record. The ld. DR argued that the assessee is small return filer, but huge value of Sundry Creditors. The ld. DR further argued that the major balance of sundry creditors is that of Mr. Rakesh Sadana. The matter of Rakesh Sadana was already adjudicated by the same Bench of ITAT-Amritsar, which is against the party, ITA no. 202/ASR/2018 date of pronouncement-13.09.2023. So, the entire addition

made by the Sundry Creditors has no credit worthiness and some of the sundry creditors are not verified by the Id. AO. Further, the reason was not specified by the assessee during submission U/R 46A, Income Tax Rule, 1963 before the Id. CIT(A).

6. The Id. AR for assessee mentioned in written submission that the assessee had submitted all the relevant documents related to every sundry creditor i.e. PAN, Books of accounts of parties, Bills, confirmation of party before both the authorities. The details are mentioned in written submission which is reproduced as below:-

“Sir, it is further submitted that Ld. AO made addition of Rs. 5,68,93,270/- on account of total sundry creditors outstanding in the books of assessee, without considering the facts of the case and submissions of the assessee. In order to substantiate the same, assessee filed the following evidences before the Ld. AO during the assessment proceedings and were also placed before the Hon’ble CIT(A):

M/s 20 Micron Limited

1. Copy of account of assessee in the books of M/s 20 Micron Limited along with its PAN.

2. Copy of account of M/s 20 Micron Limited in the books of assessee.
3. Copy of reconciliation statement reconciling the balance as per our books and as per books of M/s 20 Micron Limited.
4. Copy of bill issued by M/s 20 Micron Limited to the assessee reflecting its TIN, service tax number and its address.

M/s Amar Traders

1. Copy of account of assessee in the books of M/s Amar Trader.
2. Copy of account of M/s Amar traders in the books of assessee.
3. Copy of bill issued by M/s Amar Traders to the assessee reflecting its TIN and its address.

M/s Arti Chemical Industries

1. Copy of account of assessee in the books of M/s Arti Chemical Industries along with its PAN.
2. Copy of account of M/s Arti Chemical Industries in the books of assessee.
3. Copy of reconciliation statement reconciling the balance as per our books and as per books of M/s Arti Chemical Industries.
4. Copy of bill issued by M/s Arti Chemical Industries to the assessee reflecting its TIN, CST Number and its address.

M/s Aryan Enterprises

1. Copy of account of assessee in the books of M/s Aryan Enterprises along with its PAN.
2. Copy of account of M/s Aryan Enterprises in the books of assessee.

M/s Deepak International

1. Copy of account of assessee in the books of M/s Deepak International along with its PAN.
2. Copy of account of M/s Deepak International in the books of assessee.
3. Copy of bill issued by M/s Deepak International to the assessee reflecting its TIN and its address.
4. M/s Deepak International has directly filed confirmed copy of account to the Ld. AO which is also accepted by Ld. AO from pg 2 last para of Assessment order.

M/s Delhi Pipe Industries

1. Copy of account of assessee in the books of M/s Delhi Pipe Industries.
2. Copy of account of M/s Delhi Pipe Industries in the books of assessee.
3. Copy of bill issued by M/s Delhi Pipe Industries to the assessee reflecting its TIN and its address.
4. The amount outstanding represents an opening balance.

M/s Durga Pipes

1. Copy of account of M/s Durga Pipes in the books of assessee along with its address.
2. The amount outstanding represents an opening balance.

M/s Greatway Rubber Industries

1. Copy of account of M/s Greatway Rubber Industries in the books of assessee along with its address.
2. Copy of reconciliation statement reconciling the balance of M/s Greatway Rubber Industries in our books.

Mr. Harish Chug

1. Copy of undertaking from Sh. Harish Chugh stating that he made interest free advance to assessee.

M/s Indo Chem Industries

1. Copy of account of assessee in the books of M/s Indo Chem Industries along with its address.
2. Copy of account of M/s Indo Chem Industries in the books of assessee.
3. M/s Indo Chem Industries has directly filed confirmation to the Ld. AO.

M/s JaiMurty Minerals & Chemicals Pvt. Ltd.

1. Copy of account of assessee in the books of M/s JaiMurty Minerals & Chemicals Pvt. Ltd. along with its PAN.
2. Copy of account of M/s JaiMurty Minerals & Chemicals Pvt. Ltd. in the books of assessee.
3. Copy of reconciliation statement reconciling the balance as per our books and as per books of M/s JaiMurty Minerals & Chemicals Pvt. Ltd..
4. Copy of bill issued by M/s JaiMurty Minerals & Chemicals Pvt. Ltd. to the assessee reflecting its TIN, CST No. and its address.

M/s Kaveri Lime Industries Ltd.

1. Copy of account of assessee in the books of M/s Kaveri Lime Industries Ltd. along with its address, TIN number and CST Number.
2. Copy of account of M/s Kaveri Lime Industries Ltd. in the books of assessee.
3. The amount outstanding represents an opening balance.

M/s Khandelwal Microns

1. Copy of account of assessee in the books of M/s Khandelwal Microns along with its PAN.
2. Copy of account of M/s Khandelwal Microns in the books of assessee.
3. Copy of reconciliation statement reconciling the balance as per our books and as per books of M/s Khandelwal Microns.
4. Copy of bill issued by M/s Khandelwal Microns to the assessee reflecting its TIN Number and its address.

M/s Laxmi Enterprises

1. Copy of account of assessee in the books of M/s Laxmi Enterprises.
2. Copy of account of M/s Laxmi Enterprises in the books of assessee.
3. Copy of bill issued by M/s Laxmi Enterprises to the assessee reflecting its TIN Number and its address.
4. The amount outstanding represents an opening balance.

M/s Mahavir Mineral Industries

1. Copy of account of M/s Mahavir Mineral Industries in the books of assessee.
2. Copy of bill issued by M/s Mahavir Mineral Industries to the assessee reflecting its TIN Number and its address.
3. The amount outstanding represents an opening balance.

M/s Neelam Rubber Works

1. Copy of account of assessee in the books of M/s Neelam Rubber Works.
2. Copy of account of M/s Neelam Rubber Works in the books of assessee.
3. The amount outstanding represents an opening balance.

M/s R.K. Minerals

1. Copy of account of assessee in the books of M/s R.K. Minerals.
2. Copy of account of M/s R.K. Minerals in the books of assessee.
3. The amount outstanding represents an opening balance.
4. Copy of bill issued by M/s R.K. Minerals to the assessee reflecting its TIN Number and its address.

M/s Raheja Chemicals Pvt. Ltd.

1. Copy of account of assessee in the books of M/s Raheja Chemicals Pvt. Ltd..
2. Copy of account of M/s Raheja Chemicals Pvt. Ltd. in the books of assessee.
3. The amount outstanding represents an opening balance.
4. Copy of bill issued by M/s Raheja Chemicals Pvt. Ltd. to the assessee reflecting its TIN Number and its address.

M/s Rugby Exports (India) Pvt. Ltd.

1. Copy of account of M/s Rugby Exports (India) Pvt. Ltd. In the books of assessee.
2. Copy of reconciliation statement reconciling the balance of M/s Rugby Exports (India) Pvt. Ltd. in our books.

M/s Sadana Associates

1. Copy of account of assessee in the books of M/s Sadana Associates along with its PAN.
2. Copy of account of M/s Sadana Associates in the books of assessee.
3. Copy of bill issued by M/s Sadana Associates to the assessee reflecting its TIN and its address.
4. M/s Sadana Associates has directly filed confirmed copy of account to the Ld. AO which is also accepted by Ld. AO from pg 2 last para of Assessment order.

M/s Saraswati Industries

1. Copy of account of assessee in the books of M/s Saraswati Industries.
2. Copy of account of M/s Saraswati Industries in the books of assessee.
3. Copy of bill issued by M/s Saraswati Industries to the assessee reflecting its TIN Number and its address.

M/s Shiva Traders

1. Copy of account of assessee in the books of M/s Shiva Traders along with its PAN and reflecting its address.
2. Copy of account of M/s Shiva Traders in the books of assessee.
3. The amount outstanding represents an opening balance.

M/s Shree Ganesh & Company

1. Copy of account of assessee in the books of M/s Shree Ganesh & Company.
2. Copy of account of M/s Shree Ganesh & Company in the books of assessee.
3. The amount outstanding represents an opening balance.
4. Copy of bill issued by M/s Shree Ganesh & Company to the assessee reflecting its TIN Number and its address.

M/s Supreme Rubber Industry

1. Copy of account of M/s Supreme Rubber Industry In the books of assessee.
2. Copy of reconciliation statement reconciling the balance of M/s Supreme Rubber Industry in our books.

M/s Wasson Chemical

1. Copy of account of assessee in the books of M/s Wasson Chemical.
2. Copy of account of M/s Wasson Chemical in the books of assessee.
3. The amount outstanding represents an opening balance.
The firm has directly filed confirmation to the Ld. AO.”

7. The ld. AR mentioned in written submission which is reproduced as below:-

“Sir, the worthy CIT(A) has also given its decision in the favour of the assessee and has deleted the addition made by the ld. Assessing Officer for the following reasons:

. The appellant has fairly discharged its onus in proving the identity and genuinity of the sundry creditors as these

creditors were business creditors and were there in the books of account since previous year and are carried forward in the subsequent years.

. Once summons were fully served on the creditors, there identity is duly proved and the AO could not have drawn and inference against the assessee and made addition u/s. 68 of the Act without enforcing the attendance of the parties to whom the summons were issued and served and without giving an opportunity to the assessee.

. Assessee is engaged in the business of Trading of Chemicals under the name of M/s. Amogh Enterprises the assessee is regularly filing its return regularly. The appellant's books of accounts are audited u/s. 44AB of the Act. The AO has accepted the sales of the appellant, however rejected the sundry creditors as unexplained u/s. 68 of the Act. It is well settled principle that there cannot be sales without commensurate purchases.

The AO has not commented on the new facts submitted before him in form of additional evidence.

The addition made by the AO on account of sundry creditors amounting to Rs.56893270/- u/s. 68 of the Act is not proper and is hereby deleted.

Sir, the assessee has proved the genuinity and identity of the sundry creditors by providing all the requisite details required. Thus, considering the facts of the case and submissions of the

assessee, it is requested that the order of the Worthy CIT(A) may kindly be affirmed.”

8. The relevant paragraphs of appeal order are re-produced as below:

“6. Decision:

The appellant in its ground of appeal assailed the AO in making an addition of Rs. 5,68,93,270/- on account of sundry creditors outstanding in the books of assessee, and framing the assessment at an income of Rs. 5,73.19.260/- without considering the submission filed by the assessee and the confirmation filed by the assessee in course of assessment. The appellant alleged that all the confirmations of the creditors, the copies of the ledger account, and the name and address of the creditors were provided to the AO and were available with the AO at the assessment stage. The appellant in its submission submitted that out of total creditor amounting to Rs. 5,68,93,270/-, amount of Rs. 4,26,81,547/- pertains to two firms i.e., M/s Deepak International, Jalandhar and M/s Sidana Associates, Jalandhar respectively. The appellant further submitted that in the course of assessment proceeding it has furnished the name, address, PAN and copy of confirmation of these two creditors. The appellant further submitted that the AO in course of assessment proceedings issued summon u/s 131 to these two creditors, however, they did not appear before the AO and accordingly the AO treated them unexplained.

6.1 The AO in the assessment order noted that the assessee in its books has shown sundry creditor of Rs. 56843270/-. The AO noted that though the sundry creditors were of the tune of Rs. 56893270/- the sale of the firm was Rs. 39546602/-. The assessee was asked to file the copy of the audit report and notice u/s 133(6) of the Act were issued to the sundry creditors for ascertaining the genuineness. The AO in the assessment order noted that M/s Deepak International, Jalandhar and M/s Sidana Associate, Jalandhar filed the copy of the accounts. The AO noted that in the confirmation received the PAN no and Ward/ Circle where these firms were assessed were not mentioned. The AO further in the assessment order noted that Sh. Rakesh Kumar Sidana, Proprietor of M/s Deepak International and M/s Sidana Associates are assessed in the ward and the case is under scrutiny and that Sh. Rakesh Kumar Sidana was summoned u/s 131 of the Act, to which he did not comply. The AO taking into account the factum of case issued a show cause notice to the assessee. The assessee in response to the show cause notice submitted that of the sundry creditors M/s Deepak International and M/s Sidana Associate were the major creditors. The assessee filed the copy of the ledger account appearing in its books of accounts and the PAN. Further, the assessee filed the copies of other creditors.

6.2 The AO while framing the assessment held that the replies were not convincing as the assessee has not produced the

Account/cash book to substantiate the genuineness of the transactions. The AO noted that the creditors namely Sidana Associates and Deepak International did not respond to the summon issued u/s 131 of the Act and accordingly the AO proceeded to add the sundry creditors amounting to Rs. 56893270/- as unexplained income and assessed income accordingly.

6.3 The appellant in the appellate proceeding submitted that it had furnished the name, address, PAN and confirmation of the sundry creditors. The appellant submitted that it has made its best efforts to provide all the detail regarding creditors available with him. The appellant further submitted that once the assessee has provided the details and the AO has issued the summons u/s 131 of the Act, the assessee has discharged its duty cast upon him and non-compliance to the summon issued u/s 131 of the Act by the person cannot be construed against him in this regard the appellant relied on the decision of ITAT, Agra Bench in the case of ITO vs. Mayur Agarwal 43 DTR 116 (Agra)(TM), wherein it is held that, Burden of proof-Once summons were duly served on the creditors, their identity is duly proved and the AO could not have drawn and inference against the assessee and made addition u/s 68 of the Act without enforcing the attendance of the parties to whom the summons were issued and served and without giving an opportunity to the assessee. The appellant further submitted that despite his best effort he could not provide details of a few

creditors at the time of the assessment proceedings, however the assessee submitted that it had filed copy of account of these creditors as existing in its books of account. The appellant further submitted that now assessee is furnishing herewith the confirmed copies of accounts along with reconciliation as required in few accounts, so it is requested that these accounts may kindly be accepted as additional evidence u/r 46A of the Rules. The appellant filed additional evidences which it could not submit before the AO and requested for its admission u/r 46A of the Rules. Rule 46A of the Rules provides for production of additional evidence before the Commissioner of Income tax Appeal. Sub-rule (2) of the Rule 46A provides that no evidence shall be submitted under sub-rule (1) unless the Commissioner of Income-tax Appeal records the reasons in writing and sub-rule (3) provides that the AO shall be provided a reasonable opportunity to examine the additional evidences.

6.4 The submission of the appellant is considered as the appellant could not submit some of the detail at the appellate stage further the creditors to whom summons u/s 131 were issued did not comply on the basis of which the AO made the addition. Taking into account of the facts of the case the additional evidences are forwarded to the AO to examine the same in light of sub-rule (3) of Rule 46A of the Rules. The report of the AO is produced above in Para-5 IV above. The AO in his report has reiterated the facts as stated in the assessment order and stated that the additional evidence should not be

admitted. The report of the AO is perused. The AO has not commented on the new facts submitted before him in form of additional evidences. The report of the AO was forwarded to the appellant for providing its comment. The reply of the appellant is reproduced in Para 5-V above. After taking into account the additional evidences, the remand report and the reply of the appellant, the appeal is decided accordingly on merit.

6.5 The appellant filed detailed submission in support of its grounds of appeal along with the copy of account, assessment details, PAN, bills of purchases etc. as enumerated in Para 5-II above of the total sundry creditors of Rs. 56893270/- major sundry creditors M/s Deepak international & M/s Sidana Associates constitutes credit balance of Rs. 42681547. These two creditors had submitted their confirmation directly to the AO and is accepted by the AO in the assessment order. It is to state that the AO has noted that Sh. Rakesh Kumar Sidana, the proprietor of above two firms was assessed to tax in the ward. That establishes the identity of Sh. Rakesh Sidana, the proprietor of these two alleged firms which are existing as sundry creditor in the books of account of the assessee. However, Sh. Rakesh did not comply with the summon issued u/s 131 of the Act and this non-appearance by Sh. Rakesh Kumar Sidana was considered sufficient by the AO to deem it as bogus and add the credit balance u/s 68 of the Act in the

hands of the appellant. As stated above, these two creditors had submitted their confirmation with the AO and that Sh. Rakesh Kumar Sidana, the proprietor of these alleged two firms is assessed to tax in Ward, the AO could have verified from the records available with the department to see whether the credit balance existing in appellant's books of account matches with their books. Further, in the remand stage the details provided by the appellant along with copies of the running ledger account etc. the AO has chose to repeat the facts which were reported in the assessment order. The appellant was called to provide the details of the sundry creditors for the two previous and succeeding years. And as seen from the submission is engaged in the business of Trading of Chemicals under the name of M/s AmoghEnterprises the assessee is a regularly filing its return regularly. The appellant's books of accounts are audited u/s 44AB of the Act. The AO has accepted the sales of the appellant, however rejected the sundry creditors as unexplained u/s 68 of the Act. It is well settled principle that there cannot be sales without commensurate purchases.

6.6 Business Involves comprehensive activities which inter alia include purchase of goods, sale of goods, payment through banking transaction, credit purchase and credit sale. Further this activity as per the requirement of law has to be recorded in the books of accounts strictly in accordance with the provision of section 44AA and shall be audited by the tax auditor under section 44AB. The appellant had complied with all these

provisions of the law and the AO has not found any "defect" or infirmity or irregularity in these documents. The AO has been very selective in negating the business activities by accepting the purchases and sales however rejecting the creditors. During Assessment proceedings the assessee has furnished the details of the creditors wherein the communication can be made either through the postal authorities or directly by the AO, which establishes the identity of these creditors. Further during the course of remand proceedings, the appellant submitted the complete details along with PAN, address, ledger account etc. as discussed in Para 5-II above. The assessee has attempted to discharge his onus, so far as section 68 is concerned. The AO had been required to make an enquiry and verify the genuinity of the appellant's claim; however the AO in the remand report reiterated/ repeated the facts which were pre-existing in the assessment order. However, the AO without verifying the correctness of the identity of these sundry creditors or without bringing on record any material or evidence held that these sundry creditors are not genuine and reiterated the facts of the assessment order. It is a settled legal preposition that addition u/s 68 of the Act be made only if "assessee offers no explanation about the nature and source of such credits". The assessee has submitted the details in the assessment proceedings and further in the appeal proceedings the same were provided to the AO to examine.

6.7 *It is a settled legal proposition that when the primary onus is discharged by the assessee, the burden shifts on the AO to examine the material and in case he want to rebut the evidence supplied by the assessee, he has to collect the material or evidence and confront to the assessee before arriving at any adverse conclusion. Orient Trading Co. Ltd v. CIT (1963) 49 ITR 723 (Bom.) In holding a particular receipt as income from undisclosed source, the fate of the assessee cannot be decided by the revenue on the basis of surmises, suspicions or probabilities [Northern Bengal Jute Trading Co. Ltd. V. CIT, (1968) 70 ITR 407, 415 (Cal)]. The Hon'ble Supreme Court has also explained a number of cases that once the assessee furnishes explanation regarding the nature and source of the credit money the AO is not entitled to reject unreasonably simply on the ground that the particular provided are "unconvincing and deserve to be rejected". The AO can reject the particular provided by the assessee only after proper enquiry or bringing on record relevant material or evidences and after satisfaction on the basis of such material or evidences but the AO is not entitled to draw conclusion or inferences without examination and without putting any material on record and simply on the basis of conjecture or surmises. [Sreeiekha Banerjee v. CIT, (1963) 49 ITR (SC) 112], The satisfaction of the AO is the basis of invocation of the power'su/s 68 of the Act, but the satisfaction must be derived*

from relevant factor and on the basis of proper enquiry. [Rajshree Synthetics v. CIT (2002) 256 ITR 331 (Raj.)] Further the enquiry envisaged u/s 68 of the Act is an enquiry which is reasonable and just. [Khandelwal Construction v. CIT (1997) 227 ITR 900 (Gau.)]. Further, ITAT-Ranchi in M/s. Gulf Steel & Minerals Vs ITO in ITA No. 57/Ran/16 held that the AO is wrong in making the impugned addition on account of sundry creditor, which are related to purchases and the same also accepted by the AO as genuine. Without rejecting the purchases, the sundry creditors cannot be treated as income of assessee.

6.8 The assessment order, the submission of the appellant along with the additional evidences submitted during the course of the appeal proceedings and the report of the AO called under sub-rule (3) of Rule 46A and the judicial decision relied by the appellant are considered in the light of the above discussion. The appellant has fairly discharged its onus in proving the identity and genuinity of the sundry creditors as these creditors were business creditors and were there in the books of account since previous year and are carried forward in the subsequent years. Therefore, in view of the above discussion the addition made by the AO on account of sundry creditors amounting to Rs. 56893270/- u/s 68 of the Act is not proper and is hereby deleted. The Grounds of appeal is allowed.”

9. We heard the rival submissions and considered the documents available in the record. The Revenue has made the grievance that the Id. CIT(A) had not allowed reasonable time to the Id. AO during the appeal proceedings. Further, all the sundry creditors are lack of worthiness. The Id. DR respectfully relied on the order of the same Bench in the case of Rakesh Sadana (supra) but the Bench has not considered on merit of the case. The appeal was rejected due to non payment of admitted tax/self-assessment tax. So this order is factually not applicable in this case. In **Ground -1** the revenue agitated there is lack of documentary evidence. The evidence was accepted by pursuing the Rule 46A and the remand report was called for. The assessee claimed that the PAN, Confirmation, Books of accounts and bills are filed before the both the revenue authorities. The Id. DR has not made any objection on submission of documentary evidence by the assessee. The balance of Sundry Creditors is carry forwarded from earlier years. The same cannot be added back in impugned year. In **Ground no-2** the revenue specifically mentioned that condition is not mentioned by the assessee during submission U/R 46A. The Id. CIT(A) in order mentioned that submission was made U/R 46A(3). The acceptance of additional evidence is power of the CIT(A).

On perusal of the appeal order we find that the identity of party, submission of return in Income tax, business transactions and creditworthiness are duly observed by the Id. CIT(A) during passing the order. The balances with parties are carry

forwarded from earlier years. The ld. AO had allowed reasonable opportunity by submitting the remand report. In **Ground No-3 & 4** are general in nature.

We find no merit in the grounds of the Revenue. Accordingly, we are not interfering in the order of ld. CIT(A). The impugned appeal order is upheld.

10. In the result, the appeal of the revenue bearing **ITA No. 164/Asr/2023** is dismissed.

Order pronounced in the open court on 09.11.2023

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order