

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.142/RPR/2023
निर्धारण वर्ष / Assessment Year : 2014-15

Deepak Kumar Jain
Prop. Sapna Steels, Baster Road,
Dhamtari (C.G.)-493 773
PAN : ACHPJ0155A

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-Dhamtari (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sunil Kumar Agrawal, CA
Revenue by : Shri Satya Prakash Sharma, Sr. DR

सुनवाई की तारीख / Date of Hearing : 07.11.2023

घोषणा की तारीख / Date of Pronouncement : 07.11.2023

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 03.02.2023, which in turn arises from the order passed by the A.O under Sec. 143(3) of the Income-tax Act, 1961 (in short 'the Act') dated 07.12.2016 for the assessment year 2014-15. The assessee has assailed the impugned order on the following grounds of appeal:

“1. On the facts and circumstances of the case and in law, Id. CIT(A) has erred in sustaining addition of Rs.50,87,015/- on the count of unexplained cash credit u/s.68 of the Act.

2. The appellant craves leave, to add, urge, alter, modify or withdraw any ground/s before or at the time of hearing.”

2. Succinctly stated, the assessee had filed his return of income for A.Y.2014-15 on 21.03.2015, declaring an income of Rs.6,47,450/-. Subsequently, the case of the assessee was selected for limited scrutiny assessment u/s.143(2) of the Act.

3. During the assessment proceedings, it was observed by the A.O. that the assessee had disclosed a substantial amount of sundry creditors in his balance sheet for the year under consideration. The A.O., in order to verify the authenticity of the creditors, called upon the assessee to substantiate the same on the basis of supporting documentary evidence. In reply, the assessee filed copies of the return of income, computation of income, audit report, copies of bank statements, etc., along with confirmations. The A.O., in order to verify the genuineness of the

aforesaid creditors, issued notices u/s.133(6) of the Act to some of the parties. In reply, some of the parties denied having advanced money or entered into any transaction with the assessee during the year under consideration, as under:

Sl. No.	Name & address of the persons	Amount
1.	Shri Ashis Roy, Rampur Ward, Dhamtari	Rs.10,00,000/-
2.	Shri Vinay Mishra, S/o. Shri Naval Kishore Mishra Shiv Chouk, Dhamtari (C.G.)	Rs.8,00,000/-
3.	Shri Kamlesh Patel, Prop.M/s. Baba Glass Decorator, Dhamtari	Rs.3,00,000/-
4.	Shri Dani Ram Devangan, Vill. Kanhapur, Tah. Gurur Distt. Balod (C.G.)	Rs.8,00,000/-
5.	Shri Ajay Kumar Sandilya, Near Gujrati Dharmshala Dhamtari	Rs.6,50,000/-
6.	Shri Amit Jha, Rampur Ward, Sapna Pink City, Dhamtari	Rs.8,00,000/-
7.	Shri Manish Agarwal, Prop. M/s. Mittal Supply Agency,	Rs.7,37,015/-
	<u>Total</u>	<u>Rs.50,87,015</u>

As the aforementioned persons who were reflected as sundry creditors in the balance sheet of the assessee had denied having advanced money or entered into any transaction with the assessee, the A.O, thus, called upon the assessee to explain as to why the aforesaid amount of Rs.50.87 lac (approx.) may not be treated in his hands as bogus creditors/unexplained cash credit u/s.68 of the Act. As the assessee, despite having been afforded sufficient opportunity, failed to come forth with any satisfactory explanation, the A.O. held the entire amount of Rs.50.87 lacs (supra) as unexplained cash credits u/s.68 of the Act.

4. Aggrieved, the assessee carried the matter in appeal before the CIT(Appeals) but without success. The CIT(Appeals), while approving the view taken by the A.O held as follows:

“5.1 I have carefully gone through the records and facts of the case. The appellant has raised two grounds of appeal which challenge the addition of Rs.50,87,015/- has been made by the AO u/s 68 of the I.T. Act. Since these grounds of appeal are interlinked, these are being adjudicated together.

5.2 The appellant filed his return of income for A.Y. 2014-15 on 21.03.2015 declaring a Total Income of Rs.6,47,450/-. During the course of assessment proceedings, the AO issued notices u/s 133(6) of the I.T. Act to various sundry creditors, who have denied any transactions with the appellant. These were seven entities whose total credit balances were shown as Rs.50,87,015/- by the appellant. The AO vide order sheet entry dated 28.11.2016 and 02.12.2016 issued show cause as to why the amount of Rs.50,87,015/- should not be treated as unexplained cash credit u/s 68 of the I.T. Act. The appellant could not submit a satisfactory explanation to the above show cause issued by the AO. The AO completed the assessment u/s 143(3) of the I.T. Act on 07.12.2016 determining the total income at Rs. 57,34,470/-, wherein addition of Rs.50,87,015/- has been made by the AO u/s 68 of the I.T. Act.

5.3 During the course of appellate proceedings, the appellant has not responded to the various notices issued u/s 250 of the I.T. Act issued by the First Appellate Authority. However, in the grounds of appeal filed along with Form No.35, the appellant has submitted that the AO has erred in adding the amount of Rs.50,87,015/- as unexplained cash credit u/s 68 of the I.T. Act to the total income of the appellant.

5.4 It is pertinent to note that the appellant was issued various notices u/s 250 of the I.T. Act by the First Appellate Authority to make submissions and file documentary evidences in support of grounds of appeal, but the appellant has not responded to these notices during the appellate proceedings. The appellant has not produced the relevant details in support of its grounds of appeal during the appellate proceedings to prove the genuineness of the credit balances of Rs.50,87,015/- pertaining to the seven sundry creditors. The appellant could not discharge the onus of proving the identity, creditworthiness and genuineness of the transactions with these seven creditors totaling to Rs.50,87,015/- either during the assessment proceedings or during the appellate proceedings. Therefore, the amount of Rs.50,87,015/- added by the AO as unexplained cash credit u/s 68 of the I.T. Act to the total income of the appellant is hereby confirmed. Hence, these grounds of appeal are dismissed.

5.5 Accordingly, these grounds of appeal are treated as dismissed.

6. In the result, the appeal is dismissed.”

5. The assessee, being aggrieved with the order of the CIT(Appeals), has carried the matter in appeal before us.

6. Shri Sunil Kumar Agrawal, Ld. Authorized Representative (for short, 'AR') for the assessee at the threshold of hearing of the appeal submitted that both the lower authorities have erred in making/sustaining addition of Rs. 50.87 lacs (approx.) u/s. 68 of the Act. Elaborating on his aforesaid contention, it was averred by the Ld. AR that as the amount of Rs.50.87 lacs (approx.) shown by the assessee in his balance sheet against the aforesaid seven sundry creditors was an "Opening balance" that was brought forward from the earlier year, thus, no addition of the same could have been made during the year u/s. 68 of the Act. The Ld. AR, on being called upon to place on record documentary evidence to substantiate his aforesaid claim, failed to do so. Although the Ld. AR was specifically directed to produce the financial statements of the assessee for the immediately preceding year, which would irrefutably prove to the hilt that the amount aggregating to Rs.50.87 lacs (approx.) was the "opening balance" reflected in the respective accounts of the aforementioned seven creditors, however, adopted an evasive approach and failed to produce the financial statement for the immediately preceding year. Apart from that, the Ld. AR failed to do the bare minimum and did not even place on record the copies of the ledger accounts of the aforementioned parties, which would reveal that the respective amounts aggregating to Rs.50.87 lacs (supra) recorded in their accounts were the "opening balances" as of 01.04.2013.

7. Per contra, the Ld. Departmental Representatives (for short, 'DR') relied on the orders of the lower authorities. The Ld. DR submitted that in the absence of any supporting material, the unsubstantiated claim of the assessee's counsel that the

amount of Rs.50.87 lac (supra) was the “opening balance” in the respective accounts of the aforementioned creditors and not fresh credits generated during the year under consideration, did not merit acceptance, and being devoid and bereft of any substance was liable to be rejected. The Ld. DR submitted that as the assessee, in the course of the proceedings before the lower authorities, had failed to come forth with any explanation as regards both the “nature” and “source” of the credits of Rs.50.87 lacs (supra) in his balance sheet for the year under consideration, therefore, the same had rightly been held by the A.O as unexplained cash credits u/s.68 of the Act.

8. We have thoughtfully considered the issue in hand, i.e., sustainability of the addition of Rs.50.87 lacs (approx.) made/sustained by the lower authorities as unexplained cash credits u/s. 68 of the Act. As the assessee had failed to substantiate on the basis of any material his claim that the credit balances aggregating to Rs.50.87 lacs (approx.) disclosed in the respective accounts of the aforesaid parties were the opening balances that were brought forward from the earlier year, and were not generated during the year under consideration; therefore, the same cannot be accepted. On the contrary, as observed by the A.O., the aforementioned seven parties had in their reply to the notices issued u/s. 133(6) of the Act denied having advanced money or entered into any transaction with the assessee. For the sake of clarity, the observation of the A.O is culled out as follows:

“To verify the genuineness of such credit balances shown in the books of a/c in the assessee, notice u/s 133(6) of the Income-tax Act, 1961 issued to some persons calling information in this regard. Out of above, some of the persons have denied to

advanced money or any transactions with the assessee for the year under consideration Details are as under:

<u>Sl. No.</u>	<u>Name & address of the persons</u>	<u>Amount</u>
8.	Shri Ashis Roy, Rampur Ward, Dhamtari	Rs.10,00,000/-
9.	Shri Vinay Mishra, S/o. Shri Naval Kishore Mishra Shiv Chouk, Dhamtari (C.G.)	Rs.8,00,000/-
10.	Shri Kamlesh Patel, Prop.M/s. Baba Glass Decorator, Dhamtari	Rs.3,00,000/-
11.	Shri Dani Ram Devangan, Vill. Kanhapur, Tah. Gurur Distt. Balod (C.G.)	Rs.8,00,000/-
12.	Shri Ajay Kumar Sandilya, Near Gujrati Dharmshala Dhamtari	Rs.6,50,000/-
13.	Shri Amit Jha, Rampur Ward, Sapna Pink City, Dhamtari	Rs.8,00,000/-
14.	Shri Manish Agarwal, Prop. M/s. Mittal Supply Agency,	<u>Rs.7,37,015/-</u>
	<u>Total</u>	<u>Rs.50,87,015</u>

Since the persons who have been shown as sundry creditors have been denied to advanced money or any transactions with the assessee, vide order sheet entries dtd. 28/11/2016 and 02/12/2016 assessee has been asked to please explain as to why the amount shown by him in his books as sundry creditors for Rs. 50,87,015/- in the name of above persons, should not be treated as bogus creditors/unexplained cash credits u/s 68 of the Income-tax Act, 1961 and will be added to the total income.”

9. We, thus, considering the aforesaid facts, wherein the assessee had failed to discharge the onus that was cast upon him as regards proving to the satisfaction of the A.O the “nature” and “source” of credits aggregating to Rs.50.87 lacs (supra) reflected in his books of accounts, find no justification to dislodge the well-reasoned view taken by him, which, thereafter, had rightly been upheld by the CIT(Appeals). Thus, the **Ground of appeal No.1** raised by the assessee being devoid and bereft of any merit is dismissed in terms of our aforesaid observations.

10. The **Ground of appeal No. 2**, being general, is dismissed as not pressed.

11. In the result, the appeal of the assessee is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 07th day of November, 2023.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 30th November, 2023
SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. The Pr. CIT, Raipur-1 (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.