

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

**BEFORE SHRI CHALLA NAGENDRA PRASAD:
JUDICIAL MEMBER**

ITA No.2699/Del/2019
Assessment Year: 2014-15

Shri Sunil Kumar Jain, 2590, Gali Peepal Wali, Dharampura, Delhi-1100 96	Vs.	ITO, Ward 2(5), Ghaziabad
PAN :AAAFS0323A		
(Appellant)		(Respondent)

Department by	Shri Om Parkash, Sr. DR
Assessee by	S/Shri Somil Agarwal & Archit Jain, Advs.

Date of hearing	29.11.2023
Date of pronouncement	26.02.2024

ORDER

This appeal is filed by the assessee against the order of the learned Commissioner of Income-Tax (Appeals)-16, New Delhi dated 04.02.2019 for the assessment year 2014-15. The assessee raised the following grounds:

1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.22,98,299/- fully as made by Ld. AO on account of alleged difference in the balances of sundry

creditors and has further erred in sustaining the same to the extent of Rs.20,05,236/- and that too by recording incorrect facts and findings and without appreciating the submissions and evidences filed by the assessee and in violation of principles of natural justice.

2. That in any case and in any view of the matter, action of Ld. CIT(A) in sustaining the action of Ld. AO in making addition of Rs.20,05,236/- on account of alleged difference in sundry creditors, is bad in law and against the facts and circumstances of the case.
3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of the Ld. AO in charging interest u/s 234B and 234C of the Income-Tax Act, 1961.

2. The only effective ground of assessee in this appeal is in respect of sustaining the addition to the extent of Rs.20,05,236 on account of difference in sundry creditors. The learned counsel for the assessee at the outset submits that the majority of the additions represent are opening balances, thus, there is no warrant for addition under Section 68 of the Act.

3. The learned counsel for the assessee further submits as under:

“Your good self would kindly see that the difference of Rs. 1,01,000/- in the A/c of M/s Electroworld is not from the current year under appeal but was coming from earlier year. A cheque of Rs. 1,00,000/- was paid on 05.05.2012 to M/s Electroworld could not be accounted for in our books as maybe seen from mutual copies of A/c. Thus, reconciling the difference of Rs. 1,00,000/- which in any case was not relating to the year under appeal.

PB 12-22 are the copy of accounts of M/s Electro World and copies of bills from M/s Electro World.

Similarly, mutual copies of account with M/s Remson would show that in our books, there was no opening balance whereas in the books of M/s Remson there was credit balance of Rs. 11,44,086/-. Moreover, the party paid the following cheques and debited our account but those cheques were not shown received by us:

15/05/2013	Rs. 50,000/-	Chq. No. : 837375
13/06/2013	Rs. 50,000/-	Chq. No. : 1342
31/08/2013	Rs. 50,000/-	Chq. No. : 886926
28/09/2013	Rs. 35,000/-	Chq. No. : 758968
TOTAL	s. 1.85.000/-	

Difference in opening balance:	Rs. 11,44,086/-
Difference due to cheques not taken into account	Rs. 1,85,000/-
<u>Addition made</u>	<u>Rs. 9,59,086/-</u>

PB 31-33 is copy of account of M/s Remson Electro Products India P. Ltd.

PB 127-129 is the statement of account of M/s Remson Electro Products India P. Ltd. in the books of the assessee.

PB 130-136, 138 are the sales bills issued by the assessee to Remson Electro Products India P, Ltd.

PB 137, 139, 143 is sale invoices from Remson Electro Products India P. Ltd. to the assessee.

Similarly, PB 29 is the copy of account of Naveen Traders showing no credit entries during the year and PB 30, is copy of account of M/s Ranson India showing no credit entries during the year.

PB 9-11 are further submissions before CIT(A) dated 24.01.2019 submitting inter-alia that there is no difference in the transactions of current year and therefore, there was no question of any addition much less u/s 68 of the Act.

PB 99-101 is the submissions dated 29.01.2019 furnished to Ld. CIT(A) submitting that the transactions of the year were duly reconciled and there are no variations in the transactions of the year under appeal.

PB 23-26 are the copy of account of M/s Hari Om & Co. and purchase invoices from Hari Om & Co.

PB 34 is copy of account of Sunpack.

PB 35 is copy of account of Dhingra Sales Corporation.

PB 4-5 is further submissions to Ld. CIT(A), dated 09.01.2019 inter-alia submitting that addition has been made u/s 68 which was not possible in the facts and circumstances of the case and that all purchases and sales were duly reconciled with sales tax returns.

PB 6-8 is further submissions to Ld. CIT(A) dated 21.01.2019 submitting inter-alia that opening balances of the seven parties as on 01.04.2014 tallied with closing balances of these parties as on 31.03.2013 and for the transactions during the year, statement of account as per the books of accounts of the assessee were submitted as well as bank statement of the assessee and transactions details i.e., sales and purchases.

PB 1-3 are the submissions before Ld. CIT(A), dated 20.07.2017 submitting inter-alia that books of accounts have been accepted by Ld. A.O. and that adequate time was not given and there are disputes with M/s Sunpack and M/s Remson India due to defective goods supplied by them in earlier years and that goods supplied M/s Remson Electro Products India P. Ltd. are also defective and then reliance was placed on the decisions of Delhi High Court in the case of CIT vs. S-h. Vardhman Overseas Ltd.

PB 165-168, 169, 170-171, 172, 173-174, 175 are the copies of From No. 2A and 2B of the assessee.

PB 179, 180, 181 are the submissions made before Ld. CIT(A) submitting two charges showing party-wise reconciliation of purchases and sales / payment made / payment received with the opening balances and closing balances of various parties.

PB 86-98 is the copy of audited report and audited accounts.

PB 37-54 is the copy of bank statement of the assessee with Central Bank of India.

PB 102-103, 104 are the copies of accounts of M/s Eelctro World and Hari Om & Co.

PB 105-126 is the copy of bank statement maintained with Central Bank of India.

PB 144 -147 is the copy of account of M/s Electro World in the books of assessee from 01.04.2013 to 31.03.2014.

PB 148-151 is the copy of account of Hari Om & Co. from 01.04.2013 to 31.03.2014.

PB 177 is the copy of account of M/s Sunpack In the books of assessee and their confirmation on this statement of accounts itself.

PB 156-160 is the copy of account of M/s Remson Electro Products India P. Ltd. in the books of assessee from 01.04.2013 to 31.03.2014.

PB 152-155 is the copy of account Kanchan Electricals in the books of the assessee 01.04.2013 to 31.03.2014.

PB 161-164 is the copy of account of M/s Jindal Electricals in the books of assessee from 01.04.2013 to 31.03.2014.

PB 176 is the statement of account of the assessee in the books of M/s Jindal Electricals.

PB 178 is confirmation from M/s Kanchan Electricals.

PB 55-70 is the copy of decision of Hon'ble Delhi High Court in the case of CIT vs. Sh. Vardhman Overseas Ltd.

PB 71-85 is the copy of Tribunal's order in the case of Gian Williams.”

4. On a query from the Bench as to whether the matter can be restored to the Assessing Officer for detailed verification in the light of the submissions of the assessee that majority comprises of opening balances, the learned Departmental Representative has no serious objection.

5. Considering the submissions of rival parties, the issue in appeal is restored to the file of the Assessing Officer for deciding the issue

afresh in accordance with law after providing adequate opportunity of being heard to the assessee. The assessee is at liberty to file the evidences in support of his claim. The Assessing Officer shall examine the evidences, if so, furnished by the assessee and decide the issue in accordance with law.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21 /02/2024.

Sd/-

(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

Dated: 21st February,2024.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi