

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' SMC ' Bench, Hyderabad

SHRI MANJUNATHA, G. ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.288/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Jonna Iron Mart Anantapur PAN:AABFJ3457H (Appellant)	Vs.	Asstt. C. I. T. Circle 1 Anantapur (Respondent)
निर्धारिती द्वारा/Assessee by: Shri K.A. Sai Prasad, CA		
राजस्व द्वारा/Revenue by:: Shri V.M. Mahidhar, DR		
सुनवाई की तारीख/Date of hearing: 16/04/2024		
घोषणा की तारीख/Pronouncement: 16/04/2024		

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 31/01/2024 of the learned CIT (A)/Addl./JCIT (A) Pune, relating to A.Y. 2017-18.

2. The assessee has raised the following grounds:

1. *The Learned First Appellate Authority is not justified in disposing of the appeal ignoring the request for adjournment sought.*

2. *The Learned First Appellate Authority, is not justified in confirming the addition of Rs.6,29,194/- made by the Learned Assessing Officer u/s.4 1(1).*

3. *The Learned First Appellate Authority, failed to appreciate the fact that the provisions of sec.41(1) are not applicable in the facts and circumstances of the case.*

4. The Learned First Appellate Authority, in the facts and circumstances of the case, is not justified in confirming the addition of Rs.6,29,194/- ignoring the submissions fled before the assessing officer.

5. The appellant reserves his right to add, amend, delete substitute any ground or grounds during the course of the hearing.”

3. Facts of the case, in brief, are that the assessee is a partnership firm engaged in the business of trading in iron and steel, filed its return of income for the A.Y 2017-18 declaring total income of Rs.31,98,300/-. The case was selected for scrutiny and during the course of assesment proceedings, the Assessing Officer noticed that as per the balance sheet as on 31.3.2017, the assessee has shown sundry creditors at Rs.24,58,14,826/-. The Assessing Officer called upon the assessee to file the account copies in the books of account of sundry creditors. The assessee furnished the account copies in the books of sundry creditors. On verification, it is noticed that in some cases, there is a difference in closing balances in the books of account of the creditors and in the books of account of the assessee and thus, the Assessing Officer made addition of Rs.6,29,194/- u/s 41(1) of the Act as cessation of liabilities.

4. The assessee preferred an appeal before the first appellate authority and challenged the addition made by the Assessing Officer towards difference in sundry creditors balance u/s 41(1) of the Act. The first appellate authority has posted the appeal for hearing on 5 dates and in some dates, there was no response from the assessee and in some occasion, the assessee

has requested for adjournment. The appeal was posted for hearing finally on 29.1.2024 for which the assessee has filed a letter dated 28.1.2024 and sought adjournment on the ground that the Accountant is undergoing treatment. The learned CIT (A) without considering the adjournment sought by the assessee, decided the appeal and sustained the addition made towards the difference in sundry creditors balance u/s 41(1) of the Act.

5. Aggrieved with such order of the learned CIT (A), the assessee is in appeal before the Tribunal.

6. The learned Counsel for the assessee Shri K.A. Sai Prasad, C.A submitted that the learned CIT (A) has erred in sustaining the addition made towards the difference in sundry creditors balance u/s 41(1) of the Act without appreciating the fact that the assessee has filed necessary details of sundry creditors with reconciliation explaining the difference. The learned Counsel for the assessee took us to the papers filed by the assessee and argued that the assessee has filed the ledger account copies of the creditors along with the ledger account of the creditors in the books of account of the assessee and also reconciled the difference. The difference in parties account is mainly on account of the year end entries posted for adjustment towards trade discount, sales return etc., Although the assessee has furnished all the details, but the Assessing Officer has made addition u/s 41(1) of the Act without appreciating the fact that the provisions of section 41(1) only apply, when there is cessation of liabilities on account of write off of creditors by any one party.

7. The learned DR Shri V.M. Mahidhar, on the other hand, supported the orders of the learned CIT (A) and submitted that, the assessee could not explain the difference in parties accounts with necessary details. Although, the assessee claimed to have filed the reconciliation explaining the difference, but no supporting evidences has been filed to prove that the said difference is on account of trade discount etc. The Assessing Officer and the learned CIT (A) after considering the relevant facts has rightly made the addition towards the difference in sundry creditors balances u/s 41(1) of the Act.

8. I have heard the both the sides and gone through the records of the authorities below. Admittedly, there is no discussion in the assessment order with regard to the addition made towards difference in sundry creditors u/s 41(1) of the Act as to how the said difference comes under the provisions of section 41(1) of the Act. I find the learned CIT (A) has also disposed of the appeal filed by the assessee for non-prosecution by rejecting the petition filed by the assessee for adjournment, but the issues involved in the appeal was not discussed on merit on the basis of material available on record. Since, both the authorities have failed to consider the issues in the light of the relevant provisions of the Act and also contrary to the principles of natural justice, in our considered opinion, the issues needs to go back to the file of the Assessing Officer for fresh consideration. Thus, I set aside the order of the learned CIT (A) and restore the issue back to the file of the Assessing Officer and direct the Assessing Officer to verify the claim of the assessee with reference

to the evidences that may be filed to explain the difference in certain parties account. The assessee is directed to submit necessary evidences before the Assessing Officer and explain the difference computed in respect of sundry creditors balance in few accounts with details.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 16th April, 2024.

Sd/-

**(MANJUNATHA, G.)
ACCOUNTANT MEMBER**

Hyderabad, dated 16th April, 2024

Vinodan/SPS

Copy to:

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3	Pr. CIT/Addl/JCIT (A) PUNE
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order