

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 3846/MUM/2023
(Assessment Year :2012-13)**

DCIT 19(1) Room no. 506, Piramal Chamber, Lalbaug, Mumbai – 400012	Vs.	Chhaya Dinesh Vora 804, Vijay Chamber, Tribhuvan Road, Prarthna Samajh, Mumbai – 400004
PAN/GIR No. AAOPV7367F		
(Appellant)	..	(Respondent)

Assessee by	Shri. Subhash Chhajed
Revenue by	Shri. H.M. Bhatt
Date of Hearing	29/04/2024
Date of Pronouncement	30/04/2024

आदेश / ORDER

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the Revenue against order dated 28/07/2023 passed by NFAC, Delhi for the quantum of assessment passed u/s. 143(3) r.w.s. 147 for the A.Y.2012-13.

2. In the grounds of appeal, the Revenue has challenged the order of the ld. CIT (A) restricting the addition of Rs.4,66,797/- as against addition u/s 68 of Rs.4,91,38,720/- made by the ld. AO on account of credits in the bank account.

3. The brief facts are that the assessee is into business of textiles and yarns on wholesale basis and runs business in the name of proprietary concern, M/s. J.K. Textiles, besides she was also the partner in M/s. Bharti Textiles. On an average, she has been disclosing G.P rate @1-1.5% p.a. from her proprietary business and she has been regularly assessed to tax for the A.Y.2012-13. Assessee had filed her return of income on 28/09/2012 declaring income of Rs.16,44,900/- based on tax audit report finalized by the Accountant. Later on, based on information received from the office of ADIT Investigation Wing, that assessee has done some high value transaction in the bank account with the Kalapur Commercial Co-operative Bank Ltd., wherein total credits for F.Y. 2011-12 were at Rs.23.20 Crores and debits of Rs.23.17 Crores. Accordingly, notice u/s.148 was issued on 20/03/2019. In response to the notice u/s.148, assessee revised the return and declared total income of Rs. 25,78,490/-. In the notice u/s.148, she declared total purchases at Rs.16,60,74,320/- and sales at Rs.16,90,51,280/-; as against purchase at Rs.11,74,02,396/- and sales of Rs.11,94,45,763/- disclosed in the original return of income filed u/s.139(1). During the course of assessment proceedings, assessee had furnished the statement explaining the excess debits and credits in the bank account which was purely on account of purchase and sales made by the assessee during the course of the business and these debits and credits were stated to be missed out by mistake as it was not noted by the Accountant. However, all these transaction was duly reflected and was evident from the

bank statement only. Further, in response to show-cause notice, assessee had given the details of the parties through whom she has made the purchases and sale transactions. The ld. AO had also sent notices u/s. 133(6) to the parties to whom assessee had made sales which was served whereby these parties were required to furnish the copy of ledger accounts and the copies of their return of income. In response, these parties had furnished a ledger account confirmation of the transactions entered with the assessee. However, the ld. AO held that they have only furnished the ledger accounts but did not file any supporting evidences. Thus, he concluded that assessee has failed to prove the genuineness of the purchases and sales which were not offered by her in the return of income filed u/s. 139(1) and accordingly, he treated the entire difference of credit shown in the original return and the revised return of Rs.4,96,05,517/- as unexplained credit which has been added u/s.68.

4. The ld. CIT(A) after perusing the entire details furnished by the assessee and reconciliation of sales and purchase, has deleted the addition and restricted it to the difference between the deposits and the withdrawal, i.e., debits and credits which worked out to Rs. 4,66,797/-. The relevant observation of the ld. CIT (A) and the finding reads as under:-

10.1 The assessee has filed her return of income in response to section 139(1) of the IT Act on 28.09.2012 wherein she has shown purchases at Rs.11,74,02,396 and sales at Rs.11,94,45,763. During the course of assessment proceedings the assessee has filed her return of income in response to notice u/s 148 of the IT

Act wherein she has shown purchases at Rs.16,60,74,320 and sales at Rs.16,90,51,280. The difference in purchases and sales work out to this –

<i>As per return u/s 139</i>		<i>As per return filed u/s 148</i>
<i>Purchases -</i>	<i>Rs.11,74,02,396</i>	<i>Rs 16,60,74,320</i>
<i>Difference-</i>		<i>Rs. 4,86,71,924</i>
<i>Sales-</i>	<i>Rs.11,94,45,763</i>	<i>Rs.16,90,51,280</i>
<i>Difference-</i>		<i>RS. 4,96,05,517</i>

Since this difference is returned by the taxpayer in the revised return of income filed in response to section 148 this is taken as explanation for deposits/withdrawals @ Rs 49138720 (avg of Rs 48671924 and Rs 49605517). This difference of Rs 49138720 which is additional income offered is to be retained in the income computation as returned/assessed income. The difference of Rs 466797 remains unexplained. Taking into consideration the fact that the additional purchases and sales are already declared by the taxpayer in the revised return this difference has to be added and the addition to that extend @Rs 466797 is upheld. During the course of the assessment proceedings, the assessee has stated that they made all the purchases amounting to Rs.4,86,71,924 and sale amounting to Rs 4,96,05,517 in her firm were not offered in her return of income filed in response to section 139(1) of the I. T. Act on 28.09.2012. Considering this the amount of Rs 49138720 is upheld as returned and Rs 466797 is upheld as the difference remaining unexplained.

5. We have heard both the parties and also perused the relevant material placed before us and also the findings given by the ld. AO and ld. CIT (A). During the course of hearing, we had required the ld. Counsel for assessee to submit the details of reconciliation of sales which were reflected in the bank statement and to whom the sales were made. In response, the same has been furnished, wherein it has been explained that the actual sales as reflected in the bank statement was Rs. 16,90,51,280/- and purchase was Rs. 16,60,74,320/-. He submitted that, in the original return, by mistake the Accountant has taken the figure of sales of Rs.11,94,45,763/- and purchases of Rs. 11,74,02,396/- and missed out the sales and purchase figures of this amount. To prove that assessee has genuinely made purchases and sales, assessee has given the entire ledger account which was tallied and also reflected in the bank statement furnished before the ld. AO. Further, these parties have also confirmed before the ld. AO in response to show-cause notice u/s. 133(6). Thus, the order of the ld. CIT (A) should be upheld.

6. On the other hand, ld. DR relied upon the order of the ld. AO and submitted that assessee did not disclosed this sales in the original return of income and trading account and before the AO assessee could not establish the sales through proper evidence and therefore, he has rightly treated the extra credit as income of the assessee.

7. In the brief manner, the details of sales and purchases shown in the original return; shown in the revised return of income in response to show-cause notice u/s.148; and the addition made by the ld. AO and confirmed by the ld. CIT(A) is reproduced hereunder:-

CHHAYA DINESH VORA (AAOPU7367F)				
ITA No. 3846/MUM/2023				
A.Y. 2012-13				
PARTICULARS	SALES	PURCHASE	BUSINESS INCOME	RETURNED INCOME
AS PER ORIGINAL RETURN AND P/L	11,94,45,763	11,74,02,396	14,84,237	16,44,900
AS PER REVISED RETURN and REVISED P/L TO NOTICE U/S 148	16,90,51,280	16,60,74,320	24,17,830	25,78,494
DIFFERENCE	<u>-4,96,05,517</u>	<u>-4,86,71,924</u>	<u>-9,33,593</u>	<u>-9,33,594</u>
	AS PER AO	AS PER CIT (Appeal)		
Additions u/s 68 as unexplained cash credit	<u>4,96,05,517</u>	4,66,797		
Differential sales (as above)		4,96,05,517		
less:				
Average of Differential Sales and Purchase (Differential sales +differential purchases)/2 (4,96,05,517+4,86,71,924)/2		4,91,38,721		
Addition confirmed by CIT (Appeal)		<u>4,66,797</u>		

The reconciliation of differential sales which has been submitted before the ld. AO is as under:-

J.K. Textiles (Prop. Ms. Chhaya D Vora)
(A.Y.2012-13)

DEBTORS		
Opening Debtors on 01/04/2011		1,81,85,378.00
Add: Sales in 2011-12		11,94,45,763.00
		13,76,31,141.00
Less: Closing Balance of Drs		3,15,30,473.00
Total Receipts from Debtors as per the Balance Sheet {D}		10,61,00,668.00
Total Receipts		23,07,69,140
Less: Interest Recd	90,710	
Contras	29,95,671	
Cash Deposited	36,80,000	
Internal Trf to Sister Concerns	4,55,17,760	
Loans Recd/Loan Recovered	2,22,81,154	
Chq Rtd	4,97,660	
Total Receipts from Debtors {C}	15,57,06,185	
		23,07,69,140
		-1
Total Receipts from Debtors {C}		15,57,06,185
Less: Recd from Debtors {D}-AS shown ealier U/s.139(1)		10,61,00,668
Receipts from Debtors-in bank-Refected U/s.148 Notice		4,96,05,517

8. Further, we have perused the details of sales for sums aggregating to Rs. 4,96,05,517/-, which has been stated to be missed in the original return of income, it is seen that assessee has made sales to 12 parties and the major parties to whom sales were made were; Sanghavi Exports Ltd., Hera Rupa Clothiers Pvt. Ltd., and Zhalak Sarees. All these sales have been made through banking channels duly incorporated in the bank statement furnished before us. Apart from that, these parties had also confirmed before the ld. AO independently in response to notice u/s 133(6). Once the amount of Rs.4,96,05,517/- is

part of sales and their corresponding purchase has also been recorded in the bank statement, then, undisputedly it is a business income and part of the business activity and therefore, the entire sales cannot be taxed u/s.68, without giving credit on corresponding purchases which are also reflected in the bank statement. At the most addition on account of GP could have been made and Id. CIT (A) has confirmed the addition on account of the difference between sales and purchases which is nothing but addition of GP. Accordingly, on these facts, we do not find any infirmity in the order of the Id. CIT (A) and we have also independently verified through the documents submitted before us in the form of ledger account and relevant entries in the bank account filed by the assessee before us and find that the amount added by the AO is actually sales and there are corresponding purchases also duly reflected in bank and all these transactions are purely through banking channel and not in cash. Therefore, the addition made by the AO cannot be sustained and accordingly, the order of the Id. CIT (A) is confirmed and grounds raised by the Revenue are dismissed.

9. In the result, appeal of the Revenue is dismissed.

Order pronounced on 30th April, 2024.

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Mumbai; Dated 30/04/2024
KARUNA, sr.ps

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai