

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER,**

**ITA No.4455/Mum/2023 (A.Y 2009-10)**

Vinay Anil Lilani 8/19 Mehul Apartments Kanti Nagar, J.B. Nagar Andheri (E), Mumbai 400050	Vs.	Income Tax Officer- 20(3)(4) Room No. 511, 5 <sup>th</sup> Floor Piramal Chambers, Lalbaug Parel, Mumbai 400051
PAN/GIR No. :AAPPL0210L		
Appellant	..	Respondent

Appellant by :	Shri Kirit S. Sanghvi
Respondent by :	Shri Krishna Kumar, JCIT

Date of Hearing	08.05.2024
Date of Pronouncement	14.05.2024

आदेश / O R D E R

**PER AMARJIT SINGH, AM:**

This appeal filed by the assessee is directed against the order passed by the CIT(A), NFAC, Delhi, which in turn arises from the assessment order passed by the A.O u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (the Act), dated 31.10.2014 for A.Y. 2009-10. The assessee has assailed the impugned order on the following grounds before us:

- “1. The learned CIT(A) erred on facts and in law in confirming the action of the AO of disallowing Rs.66.445/- alleging that to be bogus purchase.  
Relief claimed: The disallowance be cancelled*

2. *The learned CIT(A) erred on facts and in law in invoking s. 41 of the Income Tax Act, 1961 and adding Rs.20,03,162/-being credit balance of creditors.*

*Relief claimed: The AO be directed to delete the addition of Rs. 20.03.162/-*

2. The facts in brief are that the return of income declaring total income at Rs.2,43,690/-was filed on 30th October, 2009. The same was processed u/s. 143(1) of the Act. Subsequently information was received from DIGT (Inv), Mumbai that as per the communication received from the Sales Tax Department, the assessee has obtained accommodation entries from certain parties who were providing bills of purchases without delivery of any goods. Therefore, the case of the assessee was reopened by issuing of notice u/s. 148 of the Act on 14th March, 2014. On query the assessee has submitted various documents like copy of acknowledgement of ITR return. copy of P&L Account, Balance Sheet, statement of monthly sales and purchases with names and addresses of the parties for verification of sundry creditors shown by the assessee. However, the Assessing Officer notices (AO) stated that there was no response to the notices issued u/s. 133(6) to the parties and some of the notices were returned by the postal authorities with the remarks 'unclaimed. Therefore, the total sundry creditors of Rs.20.03.162/-, which have not been confirmed by the parties was added to the total income of the assessee by treating the same as cessation of liability u/s. 41 of the Act. In addition to this the AO has also added an amount of 66,445 as bogus purchase on the ground that genuineness of the same was not proved.

3. Aggrieved, assessee appealed before the CIT(A). The Id. CIT(A) dismissed the appeal filed by the assessee.

4. During the course of appellate proceedings before us the Id. counsel for the assessee submitted that the AO has neither asked for information nor mentioned any party who has provided accommodation entries of Rs. 66,445/- to the assessee. He, however, submitted that there is no any invoices which reflect that the assessee has obtained any accommodation entry to the amount of Rs.66,445/- as reported by the AO in the assessment order. The Id. counsel for the assessee also submitted that during the course of remand proceedings before the Id. CIT(A) the assessee has submitted all the relevant documents like purchase register, invoices, delivery challan, bank statement showing payment for the purchases made by the assessee. Regarding sundry creditors the Id. counsel for the assessee submitted that the assessee has furnished email confirmations received from various sundry creditors along with current addresses, however, the lower authority has not considered the same without any has reason. Before us the Id. counsel for the assessee has also submitted a paper book comprising copies of documents and details relating to sundry creditors, financial accounts for F.Y. 2008-09, bank statements which were also provided before the lower authorities.

5. On the other hand, the Id. D.R. supported the orders of the lower authorities.

6. Heard both the sides and perused the material on record. Without reiterating the facts as discussed above, the case of the assessee was reopened on the basis of the information obtained from the Sales Tax Department that the assessee has obtained accommodation entries from certain parties without delivery of any goods. The AO has made addition of Rs.66,445/- to the total income of the assessee being bogus purchase

obtained by the assessee. The AO has also added an amount of Rs.20,03,162/- as cessation of liability u/s. 41 of the Act on the ground that confirmation was not received from the sundry creditors. After considering the submission of the assessee and material placed on record we find that nowhere in the assessment order the AO has discussed about the amount of Rs. 66,445/ for which the assessee has obtained accommodation entries. The AO has not brought on record the names and details of the parties from whom the assessee has obtained accommodation entries for the aforesaid amount. The assessee was also not informed about the party from whom the assessee has obtained these accommodation entries. Therefore, we find merit in and the submission of the ld. counsel for the assessee and the decision of the ld. CIT(A) sustaining this addition of Rs. 66,445/ is not justified. Therefore, this addition of Rs. 66,445/- is deleted.

7. Regarding the claim of sundry creditors of Rs.20,03,662/- we find that before the AO and ld. CIT(A), the assessee has furnished the position of sundry creditors as on 31 March, 2009 along with date of payment supported by copy of bank statement showing that all the 8 parties of the sundry creditors were made payment within the period 27th April, 2009 to 10th March 2010. The assessee has also enclosed copies of the confirmations received from sundry creditors through emails in the paper book. The AO has failed to consider the documents furnished by the assessee and has drawn the conclusion without any rational basis. After considering the aforesaid material facts, we find that sustaining the addition in respect of sundry creditors by the ld. CIT(A) is not justified. Therefore, this ground of the appeal is allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 14.05.2024

Sd/-  
(VIKAS AWASTHY)  
Judicial Member

Sd/-  
(AMARJIT SINGH)  
Accountant Member

Place: Mumbai

Date: 14.05.2024

n.p

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त(अपील) / The CIT(A)-
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण DR, ITAT,  
Mumbai
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायकपंजीकार (Dy./Asstt. Registrar)  
आयकरअपीलीयअधिकरण/ ITAT, Bench,  
Mumbai.**