

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'H': NEW DELHI)**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 9379/Del/2019
(Assessment Year- 2016-17)**

Deputy Commissioner of Income Tax, Circle-2, Muzaffarnagar.	Vs.	M/s Raghuvveer Metal Industries Limited, Shop No. 4, Plot No. 45/46- West Guru Angad Nagar, Opp- Best Office, Laxmi Nagar, Delhi- 110092.
PAN No: AABCR7496R		
APPELLANT		RESPONDENT

Revenue by : Shri Amit Katoch, Sr. DR
Assessee by : Shri Mohit Choudhary, CA &
Shri Harish Choudhary, CA

Date of Hearing : 15.07.2024
Date of Pronouncement : 06.08.2024

ORDER

PER SUDHIR PAREEK, JM

This appeal is preferred by the Revenue against the order dated 09.09.2019 of the order of learned Commissioner of Income Tax (Appeals)-7 [“Ld. CIT(A), for short], New Delhi, pertaining to Assessment Year 2016-17, on the following grounds:

“1. The CIT(A) has erred in law and on facts by deleting the addition of Rs. 3,41,56,172/- made by the AO on account of trade payables by not appreciating the fact that though the assessee had provided a list of 46 parties with trade credit balances totalling Rs. 18,19,33,614/-, in 4 lots and has failed to file confirmations in respect of the balance 114 parties involving total credit balance of Rs. 3,17,04,143/- till the date of assessment order.

2. The CIT(A) has erred in law and on facts by deleting the addition of Rs. 3,97,586/- made by the AO on account of advance from customers by not appreciating the fact that the assessee did not file any cross-confirmation at all from the 6 parties involved.”

2. When the matter was called for hearing, the Ld. Counsel for the assessee supported the order of the Ld. CIT(A) and contended that the solitary controversy involved towards the addition of credits of Rs. 3,45,53,758/- on account of unverified trade payables u/s 68 of the Act. In this regard, the Ld. Counsel contended that the relief granted by the Ld. CIT(A) and submitted that the Assessing Officer issued noticed u/s 142(1) dated 26.11.2018, seeking detailed particulars about the trade payables aggregating to Rs. 21,36,37,757/- along with confirmations. The assessee had collected confirmation from the respected parties but however, the assessee could not furnish confirmations to the extent of Rs. 3,45,53,758/-, involving 63 parties. The confirmation could not be filed due to paucity of time made available at the assessment stage.

3. The addition made was challenged before the CIT(A), and the relevant confirmations were filed from other parties of the trade payables. The CIT(A) found merit in the contention of the assessee and granted relief. Before the Tribunal, the Ld. Counsel referred to page no. 121 of the paper book, showing a party-wise summary of the present status, and submitted that out of the outstanding amount of Rs. 3,45,53,758/- an amount of Rs. 1,35,89,929/- in aggregate had been paid through banking channel in the subsequent financial years, as per the chart placed at page no. 121 of the Paper Book. The Ld. Counsel next submitted that the remaining amount, relating to different parties as stipulated at page no. 121, has been written off in different financial years.

4. The Ld. Counsel thus, submitted that on the face of such facts, where the creditors in question have ultimately been liquidated in subsequent years and are supported by the later confirmation or payments, there is no satisfaction to interfere with the order of the CIT(A).

5. The Ld. DR for the Revenue supported the assessment order and pointed out that the order passed by the CIT(A) contravened the

principle of natural justice under Rule 46A of the Income Tax Rules, 1962. The Ld. DR pointed out that the confirmations placed as additional evidence before the CIT(A) should not have been admitted without seeking a remand report from the Assessing officer. The DR further contented that the relief granted by the CIT(A) is not permissible under the law and besides the subsequent write back of large amounts by the assessee requires verification to assess the bonafide of the action of the assessee. The Ld. DR thus, pointed out that the order of the CIT(A) granting relief is not sustainable in law.

6. We have carefully considered the rival submissions and perused the material adverted in the course of hearing, in accordance with 18(6) of ITAT, Rules. The tabular statement referred to on page 121 of the Paper Book is reproduced herein below.

S.No.	Name of the Party	Amount (in Rs.)	BAL.W/OFF		BAL. PAID	
			AMOUNT	FY-YEAR	AMOUNT	DATE
1	Abhishek Fero Tech	1,14,890.00	-	-	-	-
2	Aman Scrap Traders	3,81,480.00	-	-	1,14,890.00	17/10/2016
3	Ambica Sales	7,76,548.00	7,76,548.00	16-17	3,81,480.00	13/06/2018
4	Ashiana Manufacturing India Ltd.	9,95,764.00	1,45,764.00	19-20	-	-
5	Ashok Verma Contractor	3,42,245.00	-	-	8,50,000.00	27/10/2016
6	Ashraf Constructions	7,77,000.00	-	-	3,42,245.00	21/05/2016
7	A S Trading Co.	1,17,688.00	1,17,688.00	16-17	7,77,000.00	09/10/2016
8	Bahubali Electronics Pvt. Ltd.	2,40,437.00	2,40,437.00	16-17	-	-
9	Balaji Electro Steels Ltd.	20,39,526.00	20,39,526.00	16-17	-	-
10	Banwari Lal & Sons	1,52,623.00	1,52,623.00	19-20	-	-
11	Dharam Steels	2,65,326.00	2,65,326.00	16-17	-	-
12	Ganga Ram Thekedar	8,12,000.00	-	-	8,12,000.00	31/08/2016
13	Global Impex & Logistics Venture	2,05,144.00	2,05,144.00	19-20	-	-
14	G N Ship Breakers	3,57,977.00	3,57,977.00	16-17	-	-
15	Hemendra Steel Corporation	11,77,431.00	11,77,431.00	16-17	-	-
16	Hindustan Lubricants	3,81,009.00	-	-	-	-
17	Jagat Metals Pvt. Ltd.	3,51,136.00	-	-	3,81,009.00	04/06/2016
18	Jageshwar Trade Link	4,43,118.00	4,43,118.00	19-20	2,34,067.00	10/10/2016
19	Jai Ambey Agency	1,91,075.00	1,91,075.00	22-23	1,17,069.00	05/05/2017
20	Jai Balaji Industries Ltd.	7,65,236.00	7,65,236.00	16-17	-	-
21	Jai Balaji Sponge Ltd.	1,78,542.00	1,78,542.00	16-17	-	-
22	Kamdhenu Ispat Ltd.	12,60,987.00	-	-	12,60,987.00	28/04/2016
23	KGN Coal Traders	2,38,238.00	2,38,238.00	19-20	-	-
24	Kuber Casting Pvt. Ltd.	3,81,759.00	-	-	3,81,759.00	15/06/2016
25	Laxmi Enterprises	3,98,681.00	-	-	3,98,681.00	30/12/2016
26	Laxmi Iron Steel	4,37,476.00	4,37,476.00	16-17	-	-
27	Maa Jalpa Enterprises	17,53,795.00	17,53,795.00	16-17	-	-
28	Ma Chhinmastika Sponge Iron Ltd.	1,87,257.00	1,87,257.00	16-17	-	-
29	Mamta Engineering Pvt. Ltd.	6,59,708.00	-	-	6,59,708.00	30/08/2016
30	Manglam Steels	5,83,223.00	5,83,223.00	19-20	-	-
31	Megha Enterprises	1,11,149.00	-	-	1,06,157.00	17/05/2016
32	M/s Ganpati Scrap	8,72,610.00	-	-	4,992.00	10/03/2019
33	M/s Maa Coal Traders	2,60,488.00	2,60,488.00	19-20	8,72,610.00	18/06/2018
34	M/s Rama Krishna Traders	1,99,846.00	1,99,846.00	16-17	-	-
35	M/s Shine Traders	3,75,450.00	3,75,450.00	16-17	-	-
36	National Scrap Traders	3,06,836.00	3,06,836.00	16-17	-	-
37	Pandit & Sons	3,14,080.00	-	-	3,14,080.00	22/08/2016
38	P D Enterprises	18,18,168.00	18,18,168.00	19-20	-	-
39	Pitambra Coal Traders	1,93,804.00	1,93,804.00	19-20	-	-
40	Planet Energy Conserve	20,74,677.00	20,74,677.00	16-17	-	-
41	Prem Motor Store	2,44,580.00	61,200.00	22-23	1,83,380.00	24/03/2017
42	Raghunath Constructions	1,10,062.00	-	-	1,10,062.00	06/08/2016
43	Rahul Steels	9,54,386.00	9,54,386.00	16-17	-	-
44	R K Scrap Traders	2,55,678.00	2,55,678.00	16-17	-	-
45	R R Enterprise	40,64,445.00	-	-	40,64,445.00	16/05/2016
46	Ruchi Steels	5,09,538.00	5,09,538.00	16-17	-	-
47	Safalata Coal Depot	7,26,162.00	7,26,162.00	19-20	-	-
48	Sanjay Badriprasad Khandeiwal	2,61,594.00	2,61,594.00	16-17	-	-
49	Shiv Jyoti Furnace Pvt. Ltd.	4,16,046.00	-	-	4,16,046.00	02/04/2016
50	Shiv Shakati Scrap Traders	4,28,578.00	4,28,578.00	19-20	-	-
51	Shobha Minerals	4,22,764.00	4,22,764.00	19-20	-	-
52	Shree Coal Research Lip	1,03,234.00	-	-	1,03,234.00	24/11/2016
53	Shree Enterprises	6,70,826.00	6,70,826.00	16-17	-	-
54	Shree Mahalaxmi Scrap Trading Co	1,21,284.00	-	-	1,21,284.00	01/04/2017
55	Shree Nut Bolt House	1,10,254.00	-	-	1,10,254.00	26/07/2016
56	Shree Steel Trading Co.	1,23,444.00	-	-	1,23,444.00	26/03/2019
57	Shri Hari Forging Products	4,65,632.00	4,65,632.00	19-20	-	-
58	Shrinath Trading Co.	1,35,540.00	1,35,540.00	16-17	-	-
59	Suprme Traders	3,04,763.00	3,04,763.00	19-20	-	-
60	Swastik Coal Corporation Pvt. Ltd.	1,17,260.00	-	-	1,17,260.00	25/03/2019
61	Techmech Engineering & Consultants	1,15,675.00	-	-	1,15,675.00	17/03/2017
	TOTAL AMOUNT	3,41,56,172.00				

S.No.	Name of the Party	Amount (in Rs.)			
1	Rathi Bar Ltd.	2,81,475.00	2,18,475.00	16-17	-
2	Rakesh Traders	1,16,111.00	-	-	-
	Total Amount	3,97,586.00			1,16,111.00 03/04/2016

7. On perusal of the tabular statement (supra), it appears that the sundry creditors related to various parties have either been paid back or Witten back, and thus no aspersions can be cast on the

bona fide of the sundry creditors per se. The assessee has filed confirmation, some of which have not been examined by the AO. While we agree with the case made out on behalf of the assessee on first principles, it will be in fitness of thing to refer the matter back to the AO for suitable verification of the write back and the payments made to the creditors. The AO shall determine the issue afresh in accordance with law. The assessee being entitled to place such evidences as deemed appropriate. Where it is found that the balances have been repaid or written back and offered for taxation in the subsequent years, the additions in question shall be deleted. The matter is thus restored to the file of the AO in terms of the direction noted above.

8. In the result, appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the Open Court on 06.08.2024

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 06/08/2024.
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

ITA No.- 9379/Del/2019
M/s Raghuvveer Metal Industries Limited

Date of dictation	15.07.2024
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	05.08.2024
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	05.08.2024
Date on which the fair order comes back to the Sr. PS/PS	6.8.24
Date on which the final order is uploaded on the website of ITAT	6.8.24
Date on which the file goes to the Bench Clerk	6.8.24
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	