

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE SMC BENCH, INDORE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No.239/Ind/2024
(Assessment Year: 2013-14)

Poonamchand Narayandas Sooni, Main Road, H. No.26, Khirkiya, Madhya Pradesh	Vs.	Income Tax Officer -2, Harda
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AABFP3619H		
Assessee by	S/Shri Ashish Goyal and N.D. Patwa, ARs	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	06.08.2024	
Date of Pronouncement	09.08.2024	

ORDER

This appeal by the assessee is directed against the order dated 26.12.2023 of the Commissioner of Income Tax (Appeals), Kolkata for A.Y.2013-14 which is arising from the assessment order u/s 143(3) of the Act dated 23.03.2016 framed by ITO-2, Harda.

2. Assessee has raised following grounds of appeal:

"1. The Id AO was not justified in passing the order. which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled

2. The Id CIT(A) was not justified in confirming the order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.

3. The Id CIT(A) was not justified in confirming the addition of Rs. 17,42,976/- as unexplained cash credit

4. The appellant carves leave to add, amend or modify any of the grounds of appeal"

3. Brief facts of the case are that the assessee is a partnership firm engaged in the business of wholesale dealer of food grains. Income of Rs.1,94,140/- declared in the e-return for Assessment Year 2013-14 filed on 27.9.2013. Case selected for scrutiny through CASS followed by validly serving of notice u/s 143(2) of the Act. Books of accounts were produced. Ld. A.O examined the financial statements and books of accounts and also provided return of preceding years. Thereafter Ld.A.O on going through the balance sheet observed that the sundry creditors were shown at Rs.1,63,22,802/-. Further examining the details filed by the assessee Ld.A.O noted that the total sum on sundry creditors includes Rs.1,12,96,543/- payable to the farmers and remaining amount to other parties. Ld. A.O further wanted to examine the

genuineness of the outstanding balance of the farmers/sundry creditors. The assessee provided details of name and address of the farmers. Ld. A.O issued notices u/s 133(6) and u/s 131 of the Act to various parties out of which 7 parties gave reply and also gave statement that they own agriculture land and they have sold their agriculture produce to the assessee firm and have only taken part of the total sale and remaining amount is outstanding which they will take from the assessee in the subsequent period as and when they are in need to purchase pesticides, medicines etc. Various other details of the farmers were filed, however Ld. A.O concluded the assessment by not accepting the explanations about the sundry creditors of Rs.17,42,976/- and along with other minor addition of Rs.50,000/- assessed income at Rs.19,87,116/-.

3.1 Aggrieved assessee preferred appeal before Ld. CIT(A) and so far as the issue of unexplained sundry creditors of Rs.17,92,976/- he confirmed the action of the Ld. A.O.

3.2 Aggrieved assessee is now in appeal before this Tribunal.

4. Ld. Counsel for the assessee apart from referring to the paper book containing 81 pages providing a copy of certificate from Inspector, Krishi Mandi, Ledger accounts of the farmers, confirmation of the farmers along with copies of khasra, aadhar and bank statement of Bank of India. He also placed reliance on the decision of this Tribunal in the case of **M/s Kamlesh Dal Mill V/s ITO ITA No.256/Ind/2023 order dated 25.10.2023** wherein also similar issue has been examined and based on the evidence filed, appeal of the assessee is allowed. Ld. Counsel of the assessee also referred to the synopsis providing list of 22 farmers from which Rs.17,42,976/- is outstanding. The relevant extract from the synopsis filed by the Ld. Counsel of the assessee is reproduced below:

"The assessee, in the audited accounts has following creditors against purchase from farmers.

S.No	Name of farmer	Village	Amount	Crop purchased	Certificate from Mandi	Confirmation & Khasra & aadhar	Ledger
1	Omprakash S/o Bhawarlal	Chhanera	78,354	Chana	PB-5	PB- 37-39	PB-16
2	Ramdin S/o Shri Radhakishan	Khirkiya	1,09,490	Chana	PB-5	PB- 33-36	PB-16
3	Vishnuprasad S/o Shri Govardhan	Khirkiya	95,670	Chana	PB-5	PB- 30-32	PB-16
4	Raghunath S/o	Khirkiya	27,506	Chana	PB-5	PB- 21-23	PB-14

	<i>Shri Ramlal</i>						
5	Ashok S/o Shri Damodar	Khirkiya	1,09,490	Moong	PB-5	PB- 52-54	PB-16
6	Abhishek S/o Shri Rameshchandra	Khirkiya	1,10,150	Moong	PB-5	PB- 55-57	PB-10
7	Veeru S/o Shri Mahendra Kumar	Khirkiya	34,850	Wheat	PB-5	PB- 40-42	PB-17
8	Dinesh S/o Shri Prahlad	Khirkiya	72,600	Soyabean	PB-5	PB- 64-66	PB-12
9	Mohan S/o Shri Kishore	Sirali	40,480	Moong	PB-5	PB- 58-60	PB-10
10	Mukesh S/o Shri Lakshinarayan	Khirkiya	75,750	Soyabean	PB-5	PB- 67-70	PB-13
11	Manohar S/o Shri Phholchand	Khirkiya	21,646	Chana	PB-5	PB- 43-46	PB-17
12	Ashok S/o Shri Ramnath	Khirkiya	1,01,150	Chana	PB-5	PB- 24-26	PB-14
13	Omprakash S/o Shri Chhetar	Khirkiya	17,173	Chana	PB-5	PB- 18-20	PB-13
14	Mahesh S/o Shri Rameshwar	Khirkiya	98,850	Chana	PB-5	PB- 27-29	PB-15
15	Ramchandra S/o Shri Narmadaprasad	Khirkiya	31,800	Wheat	PB-5	PB- 61-63	PB-12
16	Manohar S/o Shri Atmaram	Harsud	1,20,326	Moong	PB-5	PB- 47-51	PB-8
17	Dasharatha		50,596	Moong	PB-5		PB-6
18	Ranjit	Sarangpur	90,149	Moong	PB-5		PB-7
19	Bhur	Kudawa	79,674	Moong	PB-5		PB-8
20	Narayan		1,04,200	Moong	PB-5		PB-11
21	Sadasukh		2,00,000	Moong	PB-5		PB-6
22	Bhim Singh		79,572	Moong	PB-5		PB-9
			17,42,976				

2. Assessee purchased soyabean from the above farmers. The purchases were made through Mandi Samiti. The purchases were made at the year-end.

3. The purchase transaction is duly certified by Mandi Samiti. It is a trade credit and not an unsecured loan.

4. The Khasra of the parties were submitted.

5. All the farmers who sell the crops through Mandi are duly registered and pay Mandi Tax.

6. It is further submitted that the parties are trade creditors. Once the purchases are accepted, there cannot be addition for trade credits. Reliance is placed on the judgment of ITO vs Zozsons Exports Ltd. (2015) 55 taxmann.com 522 (Trib. Lucknow) where it was held that where Assessing Officer had drawn an adverse conclusion only on account of non-verifiability of sundry creditors but there being no dispute as regards purchases, and trading results having been accepted, addition made under section 68 was not sustainable.

7. In identical circumstances, in the case of M/s. Kamlesh Dal Mills, Khirkiya, the addition for such purchases of grains from farmers through mandi was deleted by the Hon'ble ITAT in ITA No. 256/IND/ 2023 vide order dated 25.10.2023. The copy of the said order is placed at PB 77-81."

4.1 He further submitted that all the purchase transactions carried with the alleged cash creditors namely 22 farmers at the year end are genuine and they are duly certified by the Inspector of the Mandi. He also submitted that Ld. A.O has accepted the purchases but surprisingly doubted the genuineness of some creditors, therefore the impugned addition deserves to be deleted.

5. On the other hand Ld. Departmental Representative vehemently argued and supported the orders of lower authorities.

6. I have heard rival submissions and perused the records placed before me. The finding of Ld. CIT(A) confirming the addition for alleged sundry creditors at Rs.17,92,976/- is in challenge before me. I observe that the assessee a partnership firm is a wholesale trader of food grains. It purchases the agriculture produce from various farmers and carrying out its trading activity. During the year under consideration out of the total sundry creditors of Rs.1,63,22,802/- a sum of Rs. 1,12,96,549/- was attributable to sundry creditors which are farmers. The focus of examination of the Ld. A.O was only with regard to the sundry creditors balance in the name of farmers. Ld. A.O's extensive exercise included taking various information from the assessee as well as issuing notice u/s 133(6) of the Act and summons u/s 131 of the Act. In most of the cases proper reply was received and some of the farmers gave the statement that they have sold goods to the assessee and they have not taken the total balance due from the firm because they will take the sum at the time of the new crop season for purchasing seeds and pesticides. Ld. A.O remain doubtful for only for 22 farmers having the outstanding balance of Rs.17,42,976/- and for the remaining amount of sundry creditors Ld. A.O was satisfied. This

satisfaction of the Ld. A.O itself asserts the *modus operandi* of business carried by the assessee that the genuine transaction have taken place between assessee and farmers by way of purchasing food grains from the farmers and further carry out the trading activity.

6.1 This is also an admitted fact that Ld. A.O has not doubted the genuineness of purchases and books of accounts have not been rejected and there is no observation of the Ld.A.O doubting the purchases. In my considered view even on this ground when the purchases have been accepted there is no justification in doubting the genuineness of sundry creditors.

6.2 Even otherwise assessee has furnished details of alleged 22 farmers having outstanding credit balance of Rs.17,42,976/-. Complete details of farmers with their address, bill of the crop purchased, certificate from mandi Inspector appearing at page 5 and also confirmation of khasra and aadhar number of the farmers along with ledger account clearly prove that the purchases made by the assessee from all these farmers are genuine and the sundry

creditors are not bogus. I also notice that the farmers sale crops at Mandi and are duly registered and pay the mandi tax and therefore under the given facts and circumstances where the purchases have been accepted and genuineness of alleged sundry creditors balance is proved, then there itself remains no room for making addition for bogus sundry creditors and for this I place reliance on the decision of Co-ordinate Bench, Lucknow in the case of ITO v/s Zazsons Exports Ltd (2015) tt taxmann.com 522.

6.3 Further since the documentary evidence for proving that the alleged sundry creditors/farmers are not bogus creditors and genuine transactions of purchase of food grains have taken place, and that Ld. CIT(A) has erred in confirming the action of Ld. A.O making the addition for bogus purchase, I place reliance on the decision of this Tribunal in the case of *M/s Kamlesh Dal Mills (supra)* where also similar issue was dealt under the similar facts and circumstances, and this Tribunal in para 8 of the order observed as under:

"8. We have considered rival submissions of both sides and perused the orders of lower-authorities as well as documents filed in the Paper-Book. The present case involves a small controversy regarding addition of Rs. 3,23,279/- made by AO. The assessee is engaged in whole-sale business of grains and in the course of business made purchases from farmers during the period 08.03.2014 to 24.03.2014 as per Certificate issued by

Inspector of Mandi Samiti, placed at Page No. 26 of Paper-Book. There is no doubt expressed by revenue qua the genuineness of purchases. In so far as payments to farmers are concerned, the copies of Ledger A/cs filed by assessee demonstrate that the payments were made in the immediate next year. The copies of Ledger A/cs are also not disputed or doubted from the side of revenue. Therefore, based on documentary evidences filed in Paper- Book by Ld. AR under a certificate in terms of ITAT Rules that all these documents were before lower-authorities, we are inclined to delete the addition made by AO. Ordered accordingly. The assessee succeeds in this appeal."

6.4 Thus respectfully following the above decision of this Tribunal and considering the facts and circumstances of the case discussed herein above I am inclined to hold that both the lower authorities erred in confirming the addition for bogus sundry creditors. Thus finding of Ld. CIT(A) is set aside and addition of bogus sundry creditors at Rs.17,46,976/- is hereby deleted. Effective Ground No.3 on merits raised by the assessee is allowed. Other grounds are general in nature which needs no adjudication.

7. In the result appeal of the assessee is allowed.

Order pronounced in the open court on 09.08.2024.

Sd/-

(MANISH BORAD)
Accountant Member

Indore, 09.08.2024

Dev/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore