

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.144/Nag./2024

(Assessment Year : 2014-15)

Nitin Traders
Station Road, Near Agrasen Chowk
Station Road, Khamgaon 444 303
PAN – AAFN6306D

..... Appellant

v/s

Asstt. Commissioner of Income Tax
Akola Circle, Akola

..... Respondent

Assessee by : Smt. Veena Agrawal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 20/01/2025

Date of Order – 23/01/2025

ORDER

Captioned appeal by the assessee is against the impugned order dated 31/01/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2014-15.

2. In its appeal, the assessee has raised following grounds:-

"1. Whether on the facts and in the circumstances of the case, the learned Assessing Officer was justified in making addition of Rs.2,43,081/- on the basis of difference in ledger balance of supplier (Konkan Agro Marine Pvt Ltd.) with the books of assessee.

2. Whether on the facts and in the circumstances of the case, the learned Assessing Officer was justified in making addition of Rs.9,92,930/- on the basis of non-accounting of credit note issued by supplier (Konkan Agro Marine Pvt. Ltd.).

3. *Whether on the facts and in the circumstances of the case, the learned Assessing Officer was justified in making addition of Rs. 5,45,061/- on the basis of difference in ledger balance of supplier (Royal Drinks) with the books of assessee.*

4. *Whether in fact and law of the case the Ld. CIT(A) is justified in passing an order in breach of principle of natural justice.*

5. *Whether the Ld. CIT(A) is justified sustaining charge of interest u/s 234A, 234B & 234C of the IT Act 1961.*

6. *The appellant craves leave to add, alter, modify and withdraw any grounds before or during the course of appellate proceedings."*

3. Facts in Brief:- During the year under consideration, the assessee was engaged in the business as wholesale trader in country liquor. During the course of assessment proceedings, the assessee filed its return of income on 29/11/2014, declaring total income at ₹ 15,36,520, and the case was selected for scrutiny through CASS. Statutory notices were issued and served to the assessee, which were responded by the assessee time-to-time. The assessee filed details such as audit report, ledger extracts of some expenses, hard copy of return, computation of income. Books of account, purchase bills, sale bills were also furnished which were test checked by the Assessing Officer. The Assessing Officer, after hearing the assessee on the basis of details produced and such other details required on specified points and after taking into account all relevant material gathered, made various additions by passing the order of assessment under section 143(3) of the Act by assessing total income at ₹ 46,84,370.

4. Insofar as the issue which relates to the difference of accounts with Konkan Agro Marine Pvt. Ltd. for ₹ 2,43,081, is concerned, the observations making addition by the Assessing Officer are reproduced bellows:-

"During the course of assessment proceedings the ledger accounts of some parties were called which are filed by the assessee. The assessee was asked to reconcile the accounts. The assessee filed the reconciliation. In the case of Konkan Agro Marine Ind. Pvt Ltd it was seen that the said party has shown opening balance at Rs 55,33,799/- whereas the assessee has shown the balance at Rs 57,76,880/-. Thus there is difference in account of Rs 2,43,081/-. The said excess liability/unreconciled balance of Rs 2,43,081/- is income of the assessee & hence added to the income of the assessee....."

5. With regard to the addition on account of unaccounted credit notes, the Assessing Officer made addition of ₹ 9,92,930, by making following observations:-

"During the course of assessment proceedings the ledger accounts of some parties were called which are filed by the assessee. The assessee was asked to reconcile the accounts which he filed. In the case of Konkan Agro Marine Ind. Pvt Ltd it was seen that the assessee has not accounted the credit notes of Rs 9,92,930/- given by the said party The said credit notes of Rs 9,92,930/- is income of the assessee & hence added to the income of the assessee....."

6. As far as addition of ₹ 5,45,061, on account of Difference in account with M/s. Royal Drinks is concerned, the Assessing Officer made this addition by making following observations:-

"Similarly in the case of M/s Royal Drinks it was seen that the said party has shown opening balance at Rs 14,34,559 /- whereas the assessee has shown the balance at Rs 19,79,620/-. The assessee was asked to reconcile the accounts. The assessee filed the reconciliation. Thus there is difference in account of Rs 5,45,061/-. The said excess liability/unreconciled balance of Rs 5,45,061/- income of the assessee & hence added to the income of the assessee....."

7. On appeal, the learned CIT(A) dismissed both the grounds relating to addition of ₹ 2,34,081 made by the Assessing Officer on account of difference of accounts with Konkan Agro Marine Pvt. Ltd. and addition of ₹ 9,92,930, made by the Assessing Officer on account of unaccounted credit notes. The

learned CIT(A), while dismissing these to grounds, his observations are as under:-

"5.2.3 The A.O. has made addition on account of difference in account and not accounted for credit notes of Rs.2,34,081/- and Rs.9,92,930/- respectively. During the course of appeal proceedings, the appellant has furnished reconciliation sheet of the M/s Konkan Agro and copy of ledger account for the period from 01.04.2014 to 31.03.2015. However, the appellant has failed to furnish the ledger account for the period from 01.04.2013 to 31.03.2014 and reasons for difference in opening balance of Rs.2,43,081/- and credit notes of Rs.9,92,930/-. The appellant has accepted the accounting error and has stated that its effect along with effect due to some other erroneous entries has been offered for taxation in the amount of Rs 604,791/- offered during AY 2015-16. It is an undisputed fact that there is a difference of opening balance of Rs.2,34,081/- and that the credit note of Rs. 9,92,930/- has not been taken in account in computing the income for AY 2014-15. In this backdrop, the addition made by the of Rs.2,34,081/- and Rs.9,92,930/- is upheld. In case of any double taxation as claimed by the appellant, the appellant is free to seek rectification of its income for AY 2015-16. The grounds of appeal raised are dismissed."

8. The learned CIT(A), with regard to the addition of ₹ 5,45,061, made by the Assessing Officer on account of difference in account with M/s. Royal Drinks for ₹ 5,45,061, dismissed the same by observing as under:-

"Similarly in the case of M/s Royal Drinks it was seen that the said party has shown opening balance at Rs. 14,34,559/- whereas the assessee has shown the balance at Rs.19,79,620/-. The assessee was asked to reconcile the accounts. The assessee filed the reconciliation. Thus there is difference in account of Rs.5,45,061/-. The said excess liability/un-reconciled balance of Rs.5,45,061/- is income of the assessee & hence added to the income of the assessee."

The assessee being aggrieved is in appeal before me raising following issues:-

- i) Difference of accounts with Konkan Agro Marine Pvt. Ltd. for ₹ 2,43,081;
- ii) Unaccounted credit notes – ₹ 9,92,930; and
- iii) Difference in account with M/s. Royal Drinks for ₹ 5,45,061.

9. Before me, the learned Counsel for the assessee, Smt. Veena Agrawal, appearing for the assessee assailing the impugned order passed by the learned CIT(A), submitted that the additions made by the Assessing Officer which were confirmed by the learned CIT(A) are bad in law as difference in the opening balance could not be added to the total income of the assessee for the year under consideration and the credit notes were settled in the subsequent assessment year and addition will lead to double taxation.

10. The learned Departmental Representative has not made any effective arguments to controvert the submissions made by the learned Counsel for the assessee and thus relied upon the orders of the authorities below.

11. I have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. As rightly contended by the learned Counsel for the assessee, the difference of accounts with Konkan Agro Marine Pvt. Ltd. for ₹ 2,43,081, and the difference of accounts with M/s. Royal Drinks of ₹ 5,45,061, on account of difference in opening balance cannot be treated as income of the assessee for the relevant year under consideration. Thus, the difference in opening balance does not call for any addition for the relevant year under consideration. As such, I set aside the impugned order passed by the learned CIT(A) and allow the grounds no.1 and 3, raised by the assessee are allowed.

12. With respect to the ground no.2, which relates to the addition on account of unaccounted credit notes, the la submitted that credit note for the claim/discount was received late by the assessee from the supplier, therefore,

it was offered as income in the subsequent year. It was, therefore, submitted that the addition made by the Assessing Officer amounts to double addition.

13. On consideration of the submission of the learned Counsel for the assessee, I find that the addition is made because of the credit note difference of ₹ 9,92,930, which was not noted in the books of accounts. The assessee explained that the credit notes of ₹ 9,92,930, was given by the supplier M/s Konakan Agro Marine Pvt. Ltd. on 31/03/2014, and it was not accounted by the assessee as the claim was not settled between the parties. This amount got settled thereafter which was offered for taxation in the subsequent year. Therefore, there was no negligence on the part of the assessee not to post the credit notes in the books of accounts. Since the assessee has already offered the amount in question in the subsequent year and offered for taxation, therefore, it would amount to double taxation. Accordingly, I set aside the impugned order passed by the learned CIT(A) on this issue and allow the ground raised by the assessee.

14. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open Court on 23/01/2025

NAGPUR, DATED: 23/01/2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur