

**IN THE INCOME TAX APPELLATE TRIBUNAL RANCHI BENCH
VIRTUAL HEARING AT KOLKATA**

[Before Shri Rajesh Kumar, AM& Shri Sonjoy Sarma, JM]

I.T.A. No. 177/Ran/2019
Assessment Year: 2015-16

DCIT, Circle-1, Ranchi	Vs.	M/s. A. K. Transport 5, Dayal Nagar, Ratu Road, Ranchi, Jharkhand-834005. (PAN: AA-EFA1840L)
Appellant		Respondent

Date of conclusion of Hearing	21.01.2025
Date of Pronouncement	20.03.2025
For the Assessee	Shri Manjeet Verma, CA
For the Revenue	Shri Khubchand T. Pandya, Sr. DR

ORDER

Per Shri Rajesh Kumar, AM

The appeal filed by the revenue is against the order of Ld. CIT(A), Ranchi dated 07.01.2019 for AY 2015-16 arising out of assessment order passed u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the "Act") by ACIT, Circle 2, Ranchi dated 29.12.2017.

2. The first issue raised by the revenue is against the order of Ld. CIT(A) holding that section 68 is not applicable to the addition made on account of sundry creditors by the Assessing Officer.

3. The facts in brief are that during the assessment proceeding, the Assessing Officer noted that there were huge sundry creditors amounting to Rs.4,36,89,102/- in the books of account of the assessee for which no confirmations were filed by the assessee. The Assessing Officer further noted that since the case was getting time barred, therefore, notice u/s. 133(6) could not be issued to the sundry creditors for confirmations of these sundry creditors. Therefore, the Assessing Officer concluded that the assessee has failed to prove

these sundry creditors and accordingly, treated the same as unexplained cash credit u/s. 68 of the Act and added to the income of the assessee.

4. In the appellate proceeding, the Ld. CIT(A) deleted the addition by holding and observing as under:

“As can be seen from the above table, the quantum of sundry creditors almost remains the same vis a vis earlier years and rather in terms of percentage of turnover, there is reduction from 26.20% for A.Y. 2012-13 to 13.03% for the year under consideration. The AR further argued that during the immediately two preceding A.Ys., the AO has completed the assessment U/S 143(3) (reproduced in para 3.3 above) and there is no adverse inference at all with respect to sundry creditors. Under these circumstances, the AR argued that the AO was not justified in making the addition of sundry creditors during the year under consideration.

(v) The AR stated that the turnover includes receipts from Transportation and Loading of coal and also Mining and Extraction of Coal which also includes transportation charges for bringing coal mined in the mines to the surface. The AR stated that the transportation expenses vis a vis turnover has come down as compared to the preceding year and the AO has rightly allowed the claim of transportation expenses. Having accepted the claim of expenses, the AR argued that the AO was not justified in adding the liability payable. The AR further argued that the transportation charges claimed in the profit & loss account could be divided into two parts i.e. one part which is actually paid and another part which is payable as on the date of Balance Sheet. Due to the action of AO, it has led to a situation wherein the first part is allowed to be claimed but the second part which is appearing as a liability on the date of Balance Sheet is not allowed to be claimed which is not at all legally tenable. The AR further argued that there is no logic at all in allowing part of the claim and adding the remaining part of the claim, which is payable.

(vi) The AR relied on the decision of the Hon'ble ITA T in the case of Raghubar Singh V Deputy Commissioner of Income-tax, Circle-5, Patna where Patna ITA T has confirmed that section 68 can be used to add cash credit in the books of the assessee and not the amount represented by Sundry Creditors where the assessee has proved that such amount actually relates to Sundry Creditors. Further, the AR also relied upon the decision of the CIT(A) Ranchi in the case of M/s. Khanna Construction Company vs ACIT, Circle-2, Ranchi [Appeal No. CIT(A), Ranchi/10179/2017-18], where the CIT(A) has accepted the above view and deleted the addition made to the income of the assessee relating to Sundry Creditors u/s 68. The order also states that section 68 cannot be invoked to add Sundry Creditors to the income of the assessee.

4.5 In view of the above detailed discussion, it is held that the AO has erroneously invoked the provisions of section 68 for making addition of sundry creditors which are appearing as payable in the Balance Sheet. Therefore, the addition of Rs.4,36,89,102/- u/s 68 is hereby deleted. Accordingly, this ground of appeal is allowed.”

5. After hearing the rival contentions and perusing the material on record, we find that the Ld. CIT(A), after taking into consideration the reply/arguments of the assessee in which the assessee has presented all the facts at great length, allowed the appeal by holding that the provisions of sec. 68 of the Act were not applicable to the sundry creditors which are

appearing as payable in the Balance Sheet. That the Ld. CIT(A) noted that there was no reasoning given by the Assessing Officer for these sundry creditors which could not be confirmed by issuing notice u/s. 133(6) of the Act as the case was getting time barred. The Ld. CIT(A) analyzed the total turnover of the assessee from AY 2012-13 to AY 2015-16 and has given full justification in relation to the turnover with the sundry creditors and finally deleted the addition. We do not find any infirmity in the order of the Ld. CIT(A) and consequently, uphold the same on this issue by dismissing the grounds of appeal of the revenue on this issue.

6. The second issue raised by the revenue is against the order of the Ld. CIT(A) restricting the disallowance to 10% of specific expenses which remained unexplained.

7. The brief facts of the case are that during the assessment proceedings, the Assessing Officer noted that the assessee has incurred certain expenses on account of travelling expenses, mess expenses and general expenses qua of which the bills and vouchers were not produced. Thereafter, the Assessing Officer randomly verified the expenses and noted that the expenses to the tune of Rs.73,26,333/- could not be verified for the want of vouchers comprising of travelling and conveyance Rs.29,76,984/-, Mess expenses Rs.23,60,458/- and general expenses Rs.19,88,891/-. Finally, the same were disallowed and added to the income of the assessee.

8. In the appellate proceeding, the Ld. CIT(A) restricted the disallowance to 10% of these expenses by observing and holding as under:

“3.6 There is also an internal contradiction in para 3 of the Assessment Order. The AO initially stated that the appellant submitted some of the vouchers for verification which were randomly verified and returned back. But, later, the AO has stated that the appellant could not produce any vouchers. It appears that this had led to the erroneous decision of the AO.

3.7 There is no justification for disallowance of 100% of the expenses during the year under consideration in spite of the fact that the expenses has come down vis a vis the turnover as compared to the earlier years and the AOs during the previous scrutiny Assessments have given a clean chit to the appellant with respect to the claim of these expenses. Moreover, as per the matching concept of income and expenditure, there is no justification for disallowance of 100% of the expenses. In case of any discrepancy due to non-availability of bills and vouchers, the AO ought to have specified the specific vouchers under their respective heads for the disallowance. However, the AO has disallowed 100% of the expenses which is not at all justifiable. After considering all the facts and circumstances

of the case under consideration, it is held that 10% of the disallowance of expenses under the heads of travelling and conveyance expenses, Mess expenses and General expenses would meet the ends of justice which would also take into account the discrepancy pointed out by the AO that certain vouchers were not available. Therefore, out of the total disallowance of Rs.73,26,333/-, the disallowance to the extent of Rs.7,32,633/- is confirmed and the remaining disallowance of Rs.65,93,700/- is hereby deleted. Accordingly, this ground of appeal is partly allowed.”

9. After hearing the rival contentions and perusing the material available on record, we note that the Assessing Officer has disallowed these expenses on the ground that the assessee has not produced bills and vouchers whereas at one point the Assessing Officer noted that assessee has produced bills and vouchers for verification and the expenses were verified on random basis. Thereafter, the Ld. CIT(A) noted that there was no justification for 100% disallowance of the expenses considering the turnover of the assessee. The Ld. CIT(A), therefore, noted that the Assessing Officer has not pointed out any specific defect or deficiency in the respective heads of expenses and finally restricted the disallowance to 10%. In our opinion, the order passed by the Ld. CIT(A) appears to be a valid and reasoned order and does not require any interreference at our end. Accordingly, the order of the Ld. CIT(A) is upheld on this issue by dismissing the grounds of appeal of the revenue.

8. In the result, appeal of the revenue is dismissed.

Order is pronounced in the open court on 20th March, 2025.

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 20th March, 2025

JD, Sr. PS

Copy of the order forwarded to:

1. Appellant–DCIT, Circle-1, Ranchi
2. Respondent – M/s. A. K. Transport
3. CIT(A), Ranchi
4. Pr. CIT
5. DR, ITAT, Ranchi,
True Copy

By Order

Assistant Registrar