

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA No. 64/Agr/2025
Assessment Year: 2020-21

Ginni Filaments Ltd., D-196, Sector-63, Noida (UP).	Vs.	DCIT, Circle 1(1)(1), Agra.
PAN : AABCG0942K		
(Appellant)		(Respondent)

Assessee by	Sh. R.S. Singhvi, CA
Department by	Sh. Sukesh Kumar Jain, CIT(DR)

Date of hearing	21.08.2025
Date of pronouncement	26.09.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been preferred by assessee against the impugned order dated 29.01.2025 passed in Appeal No. NFAC/2019-20/10175911 by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2020-21, wherein the Id. CIT(Appeals) has dismissed assessee's first appeal.

2. Brief facts state that the assessee is in the business of manufacturing knitted fabric, yarns and readymade garments and has manufacturing facilities in the state of Gujrat, Uttarakhand and Uttar Pradesh. The

assessee e-filed its return of income for assessment year 2020-21 on 05.01.2021, declaring total income of Rs.14,14,57,480/-. Assessee's case was selected for scrutiny on the issue of sale consideration of properties in ITR, being less than the sale consideration reported in Form 26QB and high liabilities as compared to low income/receipts. Statutory notices were issued and served upon the assessee. Assessee submitted working of capital gains, arising out of sale of properties to the satisfaction of the Assessing Officer. The only issue under dispute during the assessment year was with respect to the outstanding trade payable liability of Rs.34,45,60,149/- in respect of 119 parties out 257 sundry creditors. It appears from the perusal of assessment order and the impugned first appellate order that the copies of confirmations, sample bills or bank extracts pertaining to the impugned amount were not submitted before the revenue authorities. This apart, the ledgers of only 138 out of 257 sundry creditors, above Rs. 1 lakh as on 31.03.2020 were only submitted and the ledgers of remaining parties were also not submitted. Learned Assessing Officer, accordingly, disallowed the aforesaid liability and added Rs.34,45,60,149/- in the income of the assessee u/s. 41(1) of the Act.

3. Aggrieved assessee preferred an appeal before learned CIT(Appeals) against the assessment order dated 22.09.2022 passed u/s. 143(3) r/w

section 144B of the Act. Learned CIT(Appeals) dismissed assessee's first appeal and endorsed the reasoning of the Assessing Officer.

4. The second appeal has been filed on the following grounds :

"1.1 That on the facts and circumstances of the case, the order passed by Ld. CIT(A) is without proper opportunity and same is illegal and bad in law.

1.2 That the CIT(A) having failed to afford reasonable opportunity to furnish written submission and personal hearing through video conferencing, the order so passed is in gross contravention of principles of natural justice and same is void-ab-initio

1.3 That the Ld. CIT (A) grossly erred in rejecting appellant's claim that appellant was not given sufficient opportunity by Assessing Officer to provide confirmation of balances and to furnish submissions and personal hearing through video conferencing.

1.4 The Ld. CIT (A) erred in holding that appellant has failed produce documents as required by Assessing Officer vide notices dated 24.11.2021, 16.03.2022 & 24.08.2022.

2.1 That on the facts and circumstances of the case, the CIT(A) has grossly erred in confirming the addition of Rs. 34,45,60,149/- u/s 41(1) in respect of outstanding balance of Sundry creditors on the misconceived ground of remission or cessation of liability without appreciating factual and legal position.

2.2 That there being no case of any remission or cessation of liability in terms of section 41(1) and the outstanding balance of Sundry creditors being of regular nature, the invocation of section 41(1) and consequential addition is highly arbitrary and not sustainable on facts and under the law.

3. That in any case, the outstanding balance of sundry creditors being of consequential nature and arising from trading transactions, the correctness and genuineness of which is not dispute, the entire basis of addition is patently misconceived and devoid of merits.

4. That the orders passed by lower authorities are not sustainable on facts and are bad in law....."

5. Perused the records and heard learned AR for assessee and learned DR for revenue.

6. The main point for determination on the basis of all the grounds raised in this second appeal is as to whether learned CIT(Appeals) has erred in endorsing the assessment order, ignoring the fact that the said outstanding balances of sundry creditors were of regular nature from trading transactions, and further erred in passing the impugned order without affording proper opportunity of hearing to the assessee.

7. Learned representative for assessee has submitted that the issue has already been examined by learned PCIT in detail at the stage of proceedings u/s. 263 and specifically drew attention of the Bench towards para 7 of the order dated 24.07.2025 passed by this Tribunal in SA No. 01/Agr/2025, arising out of the instant appeal. Learned AR, therefore, argued that the matter u/s. 263 of the Act was dropped after considering the assessee's submissions in respect of required details. Prayed to allow the appeal.

8. Learned DR for revenue has submitted that the assessee filed only part of the details before the revenue authorities. However, the confirmations of balances, ledger copies of all sundry creditors and the details of payments released in subsequent period and the copies of purchase bills of sundry creditors with respect to the impugned amount

were not submitted despite ample opportunities afforded by the revenue authorities at both the levels. Supported the impugned order and prayed to dismiss the appeal.

9. As regards assessee's argument in respect of para-7 of the stay order dated 24.07.2025 passed by this Tribunal in SA No. 01/Agr/2025, is concerned, para-7 of the said order reads as under :

"7. We have heard both the parties and perused the relevant material on record. In this case, the Assessing Officer made the addition of Rs.34,50,60,149/- u/s 41(1) of the Act for the reasons as discussed above, which according to show cause notice dated 27.11.2024 of the Id. PCIT should have been made u/s 68 of the Act. Therefore, in either case, the quantum of disallowance u/s 41(1) of the Act made by the Assessing Officer and confirmed by the Id. CIT(A) or which in the opinion of Id. PCIT should have been made u/s 68 of the Act remains unchanged. Even if, the submission of the assessee is accepted that proceedings u/s 263 of the Act initiated by the Ld. PCIT-1, Agra, vide show-cause notice dated 27.11.2004 was dropped then also the addition of Rs.34,50,60,149/- made by the Assessing Officer and confirmed by the Ld. CIT(A) stands as on date. Thus, there is an outstanding tax demand of Rs.11,98,25,063/- in the case of the assessee after the payment of Rs.3,17,45,277/- being 20% of the demand of Rs.15,51,70,840/- raised vide order u/s 143(3) r.w.s. 144B dated 22.09.2022. The perusal of the assessment order and the order of the Ld. CIT(A), notes the fact that mere submission of invoices/bills does not prove the existence of liability and that the identity of the creditors and their confirmations was not submitted by the assessee. Further, the Assessing Officer also noted the fact that despite ample opportunities given it was not established by the assessee that these liabilities were repaid in subsequent years."

10. The interim order/stay order are always based on three factors, i.e., prima facie case, balance of convenience and irreparable loss. The above referred interim order is no exception. However, the tribunal while passing the aforesaid interim order in the instant appeal, has observed that in the

aforesaid circumstances also, the impugned addition of Rs.34,45,60,149/- made by the Assessing Officer and confirmed by learned CIT(Appeals), still stands and has to be tested by this Tribunal on the basis of confirmations of balances, ledger copies of the sundry creditors, details of payments released in subsequent period and by the copies of purchase bills with respect to the impugned amount.

11. We notice that learned counsel for the assessee has filed paper book in four volumes with a common index along with volume-I. Assessee has mentioned the particulars of documents at Sl. No. 7 as “chart containing list of sundry creditors along with supporting documents enclosed as annexures in paper book volume-II to IV”. Volume-II to IV of the paper book are voluminous and the details include confirmations, sample invoices and bank statements showing subsequent payments to creditors require verification as the same were neither filed before the Assessing Officer nor before Id. CIT(Appeals). In such a factual scenario, both the revenue authorities below had no occasion to examine and verify the said documentary evidences. We, therefore deem it just and appropriate to restore the matter back to the file of learned Assessing Officer, who shall pass order afresh in accordance with law after examining and verifying the details in respect of confirmations, sample invoices and bank statement showing subsequent payments to the creditors with respect to impugned

amount, after affording opportunity of hearing to the appellant assessee. The aforesaid point is accordingly determined and the appeal is liable to be allowed for statistical purposes.

12. In the result, the appeal is allowed for statistical purposes. The assessment order dated 22.09.2022 and the impugned order dated 29.01.2025 are set aside. Stay, if any, stands vacated.

Order pronounced in the open court on 26.09.2025.

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 26.09.2025

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra