

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 697/Bang/2024
Assessment Year : 2011-12

M/s. Madhusree Enterprises, C/o. Shri Madhu Kumar Varma, S/o. V. Subba Raju, Near Peddaraju Camp, Yamignur Hobli, Ramachandrapuram camp, Kampli, Hospet Taluk, Bellary Dist – 583 113. PAN: AAQFM6360B	Vs.	The Deputy Commissioner of Income Tax, Central Circle – 1(3), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Shri Muthu Shankar, CIT-DR

Date of Hearing	:	17-09-2025
Date of Pronouncement	:	11-12-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the Ld.CIT(A)-11, Bengaluru dated 21/02/2024 in respect of the A.Y. 2011-12 and raised the following grounds:

“1. That the Ld. AO erred in treating entire turnover as income disallowing expenditure u/s 37(1), Rs.4,40,00,000/- while making assessment u/s 144 of the IT Act, 1961.

2. That the Ld. AO erred in adding Rs.1,80,54,511/- income due to cessation of trade liability u/s 41(1) of the IT Act, 1961.

3. That the Ld. AO erred in adding Rs.43,85,362/- on account of purchases not accounted.

4. That the Ld. AO erred in adding 2&3 above since the original assessment disallowed all expenditure u/s 37(1).

5. That the Ld. CIT(A) erred in allowing the AO order u/s 144 & 143(3) RWS 147, which amounts to double taxation.

6. That the order passed by Ld. AO/ CIT(A) is liable to be set aside as the same has been passed on wrong presumptions, surmises and conjectures.

7. That the Appellant reserves the right to amend, delete, add, substitute, modify or alter any one or more of the grounds of appeal at the time of hearing.

Any other relief, which this Honorable Tribunal may deem fit and proper, be given to the Appellant.”

2. The brief facts of the case are that the assessee is a firm and trading in iron ore and other minerals. A search was conducted on 25/10/2010 and it was found that the assessee along with the other persons were involved in illegal mining in Bellary. During the course of search, some documents were seized. Thereafter, notice u/s. 142(1) was issued calling for a return of income and the assessee had not responded to any of the notices and therefore a prosecution proceeding u/s. 276CC was initiated. Thereafter, the partner appeared but did not file any details. Subsequently, the assessee furnished the copy of the financial statements in which it was shown that the turnover of the firm was at Rs. 4,40,00,000/-. The AO on the basis that the assessee is acting as a conduit to Shri Janardhana Reddy and the illegal iron ore mined by him was sold through the assessee and therefore treating the entire turnover of the assessee as the turnover of the said Shri Janardhana Reddy and assessment was made in his hands on substantial basis. The AO had made protective assessment on the assessee and not granted the expenditure incurred for earning the above income

since the entire activity is an illegal mining and therefore as per the Explanation to section 37(1) of the Act, not allowed while computing the taxable income.

3. Thereafter the AO based on the information that one of the creditors of the assessee, Smt. Saantha Lakshmi Jayaram has written off debts to the extent of Rs. 1,97,48,195/- during the A.Y. 2011-12 out of the total debt of Rs. 2,95,48,195/-, had treated the written off of debts as an income u/s. 41(1) of the Act. Thereafter notice u/s. 148 was issued for which the assessee filed the return of income and declared a loss of Rs. 1,62,031/- and subsequently notices u/s. 143(2) as well as u/s. 142(1) were issued. The assessee filed their reply that the debts were not written off by the creditor and in fact the said debt is still available in the books of accounts and therefore requested not to treat the said as income. In the objections, the assessee had submitted that the business is not closed or dissolved and only the activities are temporarily halted and once the business starts, the assessee may repay the amount to the said Smt. Saantha Lakshmi Jayaram. The AO relied on the financial statements as well as the ledger extracts and concluded that the said creditor Smt. Saantha Lakshmi Jayaram has written off an amount of Rs. 1,97,48,195/- and only carried forward the balance amount of Rs. 98 Lakhs for the next year. The AO had also stated that for the purchases effected by the assessee, there are no payments made during the year and therefore the purchases effected would include the sundry creditors. The AO therefore brought the said debt written off as income due to cessation of liability u/s. 41(1) of the Act. Further, the AO based on the details of stock provided by the assessee, had come to the conclusion that the purchases shown in the stock register is more than the purchases shown in the purchase register and therefore proposed to disallow the expenditure as unexplained expenditure. The AO had made the assessment accordingly.

4. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and raised several legal grounds and also raised grounds on merits. The Ld.CIT(A) had not accepted the legal grounds raised by the assessee that the 148 notice was issued based on a valid reason to believe. The Ld.CIT(A) had also not accepted the ground that the recording of reasons to believe was not communicated to the assessee before passing the order and therefore the order is valid in law. Similarly, the Ld.CIT(A) had also not accepted the plea that the approval was not validly granted by the authority. The assessee on merits had disputed the addition made u/s. 41(1) of the Act since the liability was not resolved between the assessee as well as the creditor and also submitted that the waiver of liabilities in her books of accounts, without communicating the said waiver to the assessee does not justify the addition made on the assessee. The Ld.CIT(A) had relied on the assessee's accounts in which Smt. Saantha Lakshmi Jayaram ledger page indicates that the said creditor had written off a debt amounting to Rs. 1,97,48,195/- with a balance debt of Rs. 98 Lakhs. The Ld.CIT(A) further observed that in the absence of payments towards the purchases of Rs.1,80,54,511/ the entries found in the accounts of the assessee would establish the fact that the creditor had waived a part of the debt and therefore the said waiver is an income taxable u/s. 41(1) of the Act. The assessee had also not furnished any valid explanation for the difference between the stock register and the purchases reported in the P&L account and therefore confirmed the addition under the unexplained expenditure. Insofar as the protective addition made by the AO by an order dated 30/03/2013, the Ld.CIT(A) had rejected the said claim since no appeal has been filed against the addition of the said income in the order dated 30/03/2013.

5. As against the said order, the present appeal has been filed before this Tribunal.

6. The appeal was filed on 17/04/2024 and thereafter none appeared for the assessee on almost all the occasions. Only on 22/08/2024, one Shri Shreepada, CA appeared and sought for an adjournment. At that time, the appeal was adjourned to 07/10/2024. Again on 07/10/2024, none appeared for the assessee and therefore the appeal has been adjourned to 06/11/2024. On 06/11/2024, one Shri Rahul Mitra, Advocate appeared and made an oral request for adjournment and on that basis, the appeal was again adjourned to 05/12/2024. Thereafter none appeared on behalf of the assessee on 05/12/2024, 20/01/2025, 28/07/2025, 31/07/2025 and 17/09/2025. Even though the notices were communicated to the assessee and in fact on one occasion, i.e. on 07/10/2024, the assessee filed an adjournment petition seeking adjournment for two months. In the said adjournment application, the assessee had submitted that they are preparing a revised grounds of appeal and also informed that the current status of the appeal against the order dated 30/03/2013 was also not known to the assessee and therefore prayed an adjournment. Even though the adjournment application stated so many things, till date, the assessee had not filed any revised grounds of appeal and also not informed about the status of the appeal pending in respect of the order dated 30/03/2013. Considering the facts and the complete non-cooperation by the assessee, we do not have any other remedy except to decide the appeal on merits based on the materials available on record.

7. The Ld.DR relied on the order of the lower authorities and prayed to dismiss the appeal.

8. We have heard the argument of the Ld.DR and perused the records available. It is the case of the AO that during the year, the creditor Smt. Saantha Lakshmi Jayaram had waived an amount of Rs. 1,97,48,195/- and therefore the AO had treated the said as cessation of liability and brought the same to tax u/s. 41(1) of the Act. Before the AO, as well as before the Ld.CIT(A), the assessee had denied any such waiver and also submitted that

he would repay the said due to the said Smt. Saantha Lakshmi Jayaram. But the AO after verifying the ledger page of the said creditor Smt. Saantha Lakshmi Jayaram in the assessee's books of accounts in which the assessee had shown the above said amount of Rs. 1,97,48,195/- as waived off / written off of debts. Even though the assessee had denied the fact that the creditor had waived off the debts, the books of accounts of the assessee would establish the fact that the assessee themselves had reduced the debts due to Smt. Saantha Lakshmi Jayaram and only shown the balance due of Rs. 98 Lakhs. Further the AO verified the purchases effected from the said Smt Saantha Lakshmi Jayaram and found that during the year the assessee had effected a total purchases of Rs 1,80,54,511/- from the said seller and not paid any single payment and therefore treated the said purchases as waiver of the liability and brought to tax as income due to cessation of liability u/s 41(1) of the Act. In such circumstances, the Ld.CITA) had considered the said facts and not accepted the plea raised by the assessee. Even before us, the assessee had not produced any records to show that the said amount was not actually written off by the creditor. Considering the ledger page of the said creditor Smt. Saantha Lakshmi Jayaram in which the assessee themselves had reduced the debt amount of Rs. 1,97,48,195/- and also the purchase ledger maintained by the assessee, we are of the view that the AO had correctly brought the amount of Rs. 1,80,54,511/- as the income due to cessation of trade liability u/s. 41(1) of the Act.

9. Similarly, in respect of the purchase difference between the stock register provided by the assessee and the purchases shown in the profit and loss account, the assessee had not properly explained why the difference has been occurred when the AO had given valid reasons for treating the said discrepancy as the unexplained expenditure. Even before the Ld.CIT(A) and also before us, no such convincing explanation was given by the assessee and therefore we are also confirming the said addition made by the AO in the order.

10. We also do not find any error in sustaining the addition of Rs. 4,40,00,000/- which was made by the AO in the earlier assessment order dated 30/03/2013 which attained finality. We, therefore rejected the plea raised by the assessee.

11. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 11th December, 2025.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 11th December, 2025.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore