

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SHRI SANJAY GARG, JUDICIAL MEMBER**

**ITA No.699/M/2014  
Assessment Year: 2009-10**

Ashok B. Gupta (HUF), 18, Surti Chambers, 2 <sup>nd</sup> Dhobhi Talao Lane, Mumbai – 400 002 <b>PAN: AAAHA4357A</b>	Vs.	ITO 19(2)(1), 3 <sup>rd</sup> Floor, Piramal Chambers, Lalbaugh, Lower Parel, Mumbai
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Ashok B. Gupta, A.R.  
Revenue by : Shri A. Ramachandran, D.R.

Date of Hearing : 16.08.2016  
Date of Pronouncement : 16.08.2016

**ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 23.12.2013 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. The assessee has taken the following grounds of appeal:

"1) The learned CIT(A) erred in :-

1.01 Confirming addition of Rs.2,30,11,968/- on account of sundry creditors.

1.02 Not considering the fact that sundry creditors of Rs.2,90,54,072/- were outstanding as on 01.04.2008 i. e. opening balance at the beginning of the year and cannot be taxed in A. Y. 2009-2010.

1.03 Not calling for remand report from learned A.O. in respect of following details submitted for the first time before learned CIT (A):-

- a) Statement reflecting details of sundry creditors including their name, PAN & address.
- b) Ledger account of sundry creditors.
- c) Xerox copy of bank statement.

1.04 Confirming addition of Rs.64,95,783/- on account of unsecured loans of following parties :-

a)	Balkrishna Poddar (Interest only)	4,02,153.00	
b)	Balkrishna Poddar (HUF) (Interest II)	1,73,277.00	
c)	Samarpan Textile Pvt. Ltd.	33,71,592.00	
d)	Sarbotidevi Poddar	3,10,750.00	
e)	Vinay Poddar (HUF)	<u>1,39,221.00</u>	43,96,993
f)	Vinay Poddar (HUF)		12,43,687.00
g)	Simmi Vinay Poddar (7,59,417+95,686 Interest)		8,55,103.00
			64,95,783.00

1.05 Adding opening balance of loan amount of Rs.7,59,477/- in case of Simmi Poddar.

1.06 Adding closing balance of loan amount of Rs.12,43,687/- in case of Vinay Poddar (HUF)."

3. The above reproduced grounds of appeal reveal that the assessee is aggrieved on account of confirmation of addition by the Ld. CIT(A) made by the AO in respect of sundry creditors and on account of loans and advances. The main contention of the assessee has been that the Assessing Officer had made additions in respect of the opening balances of sundry creditors as well as loan and advances. Further that the assessee had furnished statements, confirmations, details and evidences relating to the current year's sundry creditors and in respect of loan and advances before the Ld. CIT(A). However, the Ld. CIT(A) has neither himself looked into the details and evidences submitted by the assessee nor called for any remand report from the AO in this respect. He, therefore, has prayed that the assessee may be given opportunity to submit the necessary details to the AO for the justification of its claim of sundry creditors and loan and advances.

4. The Ld. D.R. has also not objected against restoring the matter to the AO for going through the details and evidences relied upon by the assessee.

5. In view of the above, we restore the issues taken in this appeal to the file of the AO for decision afresh. Needless to say that the AO will give proper opportunity to the assessee to present its case and file necessary details and evidences. We further direct that AO will not make additions disputing the genuineness of transactions of earlier assessment years while making the assessment for the year under consideration.

6. We also direct that the assessee will attend the proceedings before the AO as and when called for and will not contribute in unnecessary delay in disposal of the case before the AO.

7. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

**Order pronounced in the open court on 16.08.2016.**

**Sd/-**  
**(B.R. Baskaran)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(Sanjay Garg)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 16.08.2016.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.