

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC-1" : DELHI
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER
ITA.No.4226/Del./2019
Assessment Year 2014-2015

Shri Virendra Verma, 3178, Gate Nanak Chand, Dassan Street, Hauz Qazi, New Delhi – 110 006 PAN AADVP1100H	vs.	The Income Tax Officer, Ward – 46 (5), New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri R.S. Singhvi, C.A. Shri Satyajeet Goel, C.A.
For Revenue :	Shri R.K. Gupta, Sr. D.R.

Date of Hearing :	14.07.2020
Date of Pronouncement :	15.07.2020

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-16, New Delhi, Dated 07.02.2019, for the A.Y. 2014-2015, challenging the additions of Rs.5,24,293/-, Rs.1,63,331/- and

Rs.29,24,248/- under section 68 of the I.T. Act, 1961, in respect of the amounts payable to the three creditors.

2. We have heard the Learned Representatives of both the parties through video conferencing and perused the material available on record.

3. Briefly the facts of the case are that A.O. during the course of assessment proceedings noted that in the following cases neither the assessee has been able to prove genuineness nor have provided the confirmations from the parties nor any proof of payment have been submitted. Further in reply to the notice under section 133(6) the concerned sundry creditors have confirmed that during the year no transactions have been made with M/s. K.S. Overseas.

(i) M/s. Havells India Ltd., Rs. 5,24,293/-

(ii) M/s. Daulat Ram & Sons Rs. 1,63,331/-

3.1. The A.O. also noted that assessee has neither furnished confirmation from the parties nor proved the payments made to the parties. Neither the assessee has

submitted any bills of purchase to substantiate its claim. Hence, following sundry credit is also treated as unexplained.

M/s. International Cargo Rs.29,24,248/-.

3.2. The A.O. in view of the above fact that assessee failed to prove genuine credits made the addition under section 68 of the I.T. Act in a sum of Rs.36,11,872/-.

4. The assessee challenged the additions before the Ld. CIT(A). The written submissions of the assessee is reproduced in the appellate order. The substantial contention of assessee had been that in all these cases the amounts are carry forward balances of the preceding assessment years, therefore, no addition could be made in assessment year under appeal. The Ld. CIT(A) asked the A.O. to file remand report which is reproduced in the appellate order. The Ld. CIT(A) further given an opportunity to the assessee to explain the position. The Ld. CIT(A), however, did not accept the explanation of assessee and dismissed the appeal of assessee on these grounds.

5. The Learned Counsel for the Assessee reiterated the submissions made before the authorities below. He has referred to PB-7 which is details of the sundry creditor as on 31.03.2014 in which above balances against 03 creditors are appearing. PB-8 is remand report of the A.O. Learned Counsel for the Assessee referring to the remand report submitted that the parties under section 133(6) have confirmed that there were no transactions by the assessee in assessment year under appeal and even in some cases there were nil opening balances. In one case even no notice under section 133(6) could be served upon the creditor. He has referred to PB-15 which is confirmation of M/s. Havels India Ltd., PB-16 is ledger account of this creditor in the books of the assessee. PB-18 confirmation of M/s. Daulat Ram & Sons confirming balance as on 31.03.2014. PB-19 is ledger account of the creditor in the books of the assessee. PB 21 is confirmation of the creditor M/s. International Cargo. PB-22 is ledger account of this creditor in the books of the assessee. Learned Counsel for the Assessee, therefore, submitted that since balances are coming up from the

earlier year, therefore, no addition could be made against the assessee in assessment year under appeal. Copy of the purchase bills etc., are filed in the paper book in support of the contention. He has submitted that there were no transaction in assessment year under appeal and balances were coming up from the year 2008-2009. Learned Counsel for the Assessee further submitted that balance-sheet of the assessee for preceding A.Y. 2013-2014 was not filed before the authorities below and he is willing to file the same for adjudication of the issue.

6. The Ld. D.R. relied upon the Orders of the authorities below and submitted that the parties have denied transactions with the assessee which fact is mentioned in the remand report and Order of the Ld. CIT(A). Therefore, no interference is called for in the matter.

7. We have considered the rival submissions and perused the material on record. It is not in dispute that the impugned balances of the three sundry creditors are appearing in the books of account of assessee as on 31.03.2014. The assessee also filed confirmations and

ledger account of the creditors which prima facie show that balances were coming up from the earlier years. But, the A.O. in the remand report have specifically mentioned that two parties have submitted reply in response to the notice under section 133(6) i.e., M/s. Havells India Ltd., and M/s. Daulat Ram & Sons that they were having no transactions with the assessee even in earlier years and even in the case of M/s. Daulat Ram & Sons the ledger account shows nil opening and closing balance. In the case of third creditor M/s. International Cargo, notice under section 133(6) could not be served upon them. This has created a doubt in the mind of the authorities below that assessee has not brought the correct facts on record. However, the documents on record and remand report if considered in proper perspective will prima facie make it clear that the impugned amounts of the sundry creditors may not pertain to assessment year under appeal. How they were brought forward of the earlier year and how they have been appearing in the books of account could be verified by filing the balance-sheet of the preceding assessment years,

particularly, for preceding A.Y. 2013-2014. It is well settled Law that if the credits appearing in the books of account pertain to earlier year, addition could not be made in assessment year under appeal. Further the balance-sheet of the assessee for preceding A.Y. 2013-2014 and even in earlier year have not been brought on record and same were also not filed before the authorities below, therefore, we are of the view that the matter requires reconsideration at the level of the A.O. In view of the above discussion, we set aside the Orders of the authorities below and restore the matter in issue to the file of A.O. with a direction to re-decide the same in the light of material brought on record. The assessee is directed to file copy of the balance sheet for preceding A.Y. 2013-2014 as well as for earlier years to prove that balances were brought forward in assessment year under appeal. The A.O. shall give a specific finding whether the credits appearing in assessment year under appeal are brought forward credits for the earlier years or not. The A.O. shall give reasonable, sufficient opportunity of being heard to the assessee. The assessee is directed to

cooperate with the A.O. for finalisation of the matter in issue. Accordingly, appeal of the Assessee is allowed for statistical purposes.

8. In the result, appeal of the Assessee allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-
(O. P. KANT)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 15th July, 2020

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-1' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.