

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING]**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No. 1182/DEL/2017
[A.Y 2012-13]**

**M/s Godwin Construction Pvt Ltd
38, 1st Floor, Chetan Medical Complex
Chippi Tank, Meerut**

Vs.

**The A.C.I.T
Central Circle
Meerut**

PAN: AAEEFG 1843 R

(Applicant)

(Respondent)

**Assessee By : Shri Sandeep Sapra, Adv
Department By : Shri Pradeep Kumar Meel, CIT- DR**

**Date of Hearing : 08.11.2021
Date of Pronouncement : 09.11.2021**

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - IV, Kanpur dated 12.01.2017 pertaining to assessment year 2012-13.

2. The sum and substance of the grievance of the assessee is that the ld. CIT(A) erred in confirming the addition of Rs. 1,07,09,429/- as made u/s 68 of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'] by the Assessing Officer holding the increase in total outstanding balance of sundry creditors as on 31.03.2012 over total creditors balance as on 31.03.2011.

3. Briefly stated, the facts of the case are that during the course of scrutiny assessment proceedings, the assessee was asked to furnish the complete details of current liabilities, as name and address, PAN of creditors with copy of confirmed account of parties with opening balance exceeding Rs. 1 lakh.

4. The assessee could not furnish details on the date fixed for compliance. The Assessing Officer once again issued show cause notice asking the assessee as to why the amount of Rs. 1,91,89,937/- being increase in sundry creditors should not be treated as unexplained credit and added back to the income.

5. The assessee submitted confirmation from parties totaling to Rs. 84,80,508/-.

6. The Assessing Officer was of the opinion that the genuineness of the sundry creditors cannot be verified and accordingly, added the amount of Rs. 1,07,09,429/-.

7. The assessee carried the matter before the Id. CIT(A) and vehemently contended that the increase in the amount of sundry creditors is on account of trade purchases and sub-contractors. Purchase payments to sub-contractors are duly reflected in the audited balance sheet and profit and loss account. It was strongly contended that no adverse inference has been drawn in so far as the purchases are concerned and, therefore, provisions of section 68 of the Act do not apply on the facts of the case in hand.

8. Submissions of the assessee did not find any favour with the Id. CIT(A) who confirmed the addition.

9. Before us, the ld. counsel for the assessee reiterated what has been stated before the lower authorities. It is the say of the assessee ld. counsel for the assessee that complete details of creditors along with bifurcation was furnished but facts have not been properly appreciated by the lower authorities.

10. Per contra, the ld. DR strongly supported the findings of the Assessing Officer.

11. We have carefully considered the orders of the authorities below. We find that on 10.03.2015, the assessee had filed the following reply before the Assessing Officer:

To,
The Dy. Commissioner of Income Tax
Central Circle, Meerut.

M/s Godwin Construction(P) Ltd.
PAN: AAEEG1843R
Date:10/03/2015

Reg.: Your show cause notice dated 04/03/2015

Dear sir,

Please refer to your above notice. We submit our point wise reply as under:

- 1.All books of accounts/ vouchers /supporting evidence are available for inspection.
- 2.Increase in sundry creditors are against genuine purchases. We have attached with balance sheet list of sundry creditors.
- 3.Expenses amounting to Rs. 5,40,26,607/- being sub contractor changes are as per supporting T.D.S has duly been deducted and deposited with I.T departments/ Bank.
- 4.Bank accounts are available for inspection..
6. Bills/ vouchers/ books of accounts are available for inspection.

Please do the needful & oblige.

Thanking you

Yours faithfully

For M/s Godwin Construction (P) Ltd.

12. Again on 23.03.2015, the assessee filed the following before the Assessing Officer:

Cashew Construction (P) Ltd
Mumbai

44

23/3/15

The Dy Commissioner - CC
Mumbai

Sub: Confirmation of Creditors

Dear Sir

Enclosed please find confirmation of
Creditors above Re: to Co.

Please do the needful & oblige.

Thanking You,

Yours faithfully

Name

(RASHMI SHARMA)
D.O.A.

Signature

13. We find that the assessee had given complete bifurcation of the sundry creditors which is as under:

Sundry Creditors Group Summary 1-Apr-2011 to 31-Mar-2012			Page 1
	Closing Balance		
	Debit	Credit	
CREDITORS		2,73,71,638.16	
SUB CONTT		1,16,23,106.00	
AGST LAND		75,09,426.30	
CHEQUE ISS BUT NOT PRESENT		33,13,002.00	
J.S.D.CONSULTANT		6,00,000.00	
Grand Total		5,04,17,172.46	

14. The list of creditors alongwith bifurcation of the sundry creditors is as under:

(46) HT

GODWIN CONST PVT LTD
38 CHETAN MEDICAL COMPLEX
CHIPPI TANK, MEERUT
250001

CREDITORS

Group Summary

1-Apr-2011 to 31-Mar-2012

Page 1

	Closing Balance	
	Debit	Credit
AGGARWAL SCREEN PRINTER		86,415.00
Akil		78,000.00
Akshat		95,600.00
Alam Khan		79,150.95
Alankar		93,456.00
ALLAHUDEEN		80,484.00
Amir		85,648.00
A.POWER TECH ELECTRICALS		(4,48,465.00
ARIHANT TRADERS		73,668.00
ARIHANT TRADERS(ACC)		49,573.00
Avian Technologies Pvt Ltd		Y 8,42,075.00
Babar Khan		93,646.00
Baboo Khan		93,655.00
Bala Ji		83,246.00
Baldev		93,626.00
Baimukund		97,923.00
Balraj		90,235.00
BANSAL TRADE LINKS		(3,59,128.97
BIMLA BRICK FIELD		Y 6,37,036.00
BRIJ MOHAN LAL VED PRAKASH		9,64,165.00
DAVENDER KUMAR		14,15,360.00
Daya		93,746.00
DEEPAK MARBLES		2,77,708.00
Deepak Saini		88,435.00
DEEPAK SANITAY & ELE.STORE		2,77,804.00
Derik		99,464.00
DEV TRADING COMPANY		(8,44,519.00
DIVYA PUMP		73,189.00
ERERTUS DESIGN & CONSLT.		29,920.00
EXOTICA		23,000.00
Falak		85,760.00
Farhan		89,379.00
Farookh		98,234.00
Gaman		93,456.00
GARG LIGHT HOUSE		8,34,327.00
Gauri Shanker		90,000.00
GODWIN OIL & SERVICES (S)		1,59,837.84
GOLDEN OIL (S)		22,20,025.27
GOPAL TRAVELS		36,407.00
Gulfam		95,400.00
GULFAM AHMED		76,581.00
Gulzar		97,800.00
GUPTA SANITARY STORE		63,550.50
Gurbachan		99,000.00
Habib		95,000.00
Halder		98,000.00
Carried Over		1,20,80,897.53

continued ...

GODWIN CONST PVT LTD

EDITORS Group Summary : 1-Apr-2011 to 31-Mar-2012

Page:

	Closing Balance	
	Debit	Credit
Brought Forward		1,20,80,897.
Haleef		94,599.
Hanz Enterprises		1,29,640.
HARDWARI LAL DESH BHUSHAN		1,22,548.
HARISH PLYWOOD		1,94,105.
Ibrahim		93,450.
Idrish		88,760.
Ilyas		99,234.
Intikhab Alam		99,345.
Intiyaz		89,450.
JAIN MARBLE CENTRE		36,68,986.
Jakir Hussain Malik		88,450.
Jeet Singh		94,560.
JUNEJA CONSTRUCTION P LTD		7,78,205.
KAILASH CHAND MAHESH CHAND		59,896.
Kakke		93,450.
KANWAR SAIN BABU LAL TIMBER		8,809.
Khalid Sand Suppler		95,500.
Khalil Ahmed		97,845.
Kulbhushan		99,340.
KUNAL BRICK FACTORY		1,28,107.
Madhusudan		99,754.
Magan		75,678.
MAHADEV BRICK IND		1,36,277.
Mahaveer		92,450.
MILAN PIPE & SANITARY		8,57,733.
Millind		82,844.
NATIONAL CEMENT AGENCY		46,978.
Panther Security Services		73,936.
Pramod Dhaka		16,33,793.
RAJASTHAN MARBLES		2,98,278.
RAJDOOT STEELS		3,78,722.
R.K MARBLES		1,67,754.
SANGAM STEELS		2,11,536.
SHIKHAR TRADING COMPANY		5,04,764.
Shiv Electric & Trading Company		2,42,231.
SHREE CEMENT		2,09,159.
SINGHAL ADVERTISING AGENCY		52,909.
SUDHIR TRADERS		15,48,794.
SURYA MARBLES PVT LTD		2,30,467.
SURYA PAINTS & HARDWARE STORE		7,405.
UJJAWAL TRADERS		1,64,028.
VECTUS INDUSTRIES LTD GZE.		5,05,652.
VIJAY SANITARY STORE		14,50,315.
Grand Total		2,73,71,638.

15. In our considered opinion, the purchases from creditors and payments made to the creditors during the year under consideration have been considered as genuine by the Assessing Officer. Moreover, there is no cessation of liability payable to such creditors as payment made to them in subsequent year have also been accepted by the Assessing Officer which is apparent from the copy of ledger account placed at pages 148 to 205 of the paper book. Even the sales made by the assessee have been accepted by the Assessing Officer. The books of account have not been rejected.

16. Considering the facts of the case in totality, we do not find any reason to invoke the provisions of section 68 of the Act, that too, merely because there was an increase in creditors without considering the fact that as per the bifurcation of the creditors exhibited elsewhere, trade creditors are 2.73 crores and credits on account of sub-contractors payments are Rs. 1.16 crores which form part of trading account where no adverse inference has been drawn by the Revenue authorities. Considering the facts in totality, we do not find any merits in the

addition. We, accordingly, direct the Assessing Officer to delete the addition.

17. In the result, the appeal filed by the assessee in ITA No. 1182/DEL/2017 is allowed.

The order is pronounced in the open court on 09.11.2021.

Sd/-

[KULDIP SINGH]
JUDICIAL MEMBER

Sd/-

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 09th November, 2021

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
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Date on which the final order is uploaded on the website of ITAT	
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