

Ad hoc allowances of sundry creditor

ITAT AGRA

INCOME TAX OFFICER VERSUS SMT MEENA GUPTA

Ad-hoc disallowance of 20% of the creditor value – Held that:- the way the Assessing Officer has decided this issue is really surprising because there is no provision in the Act to disallow 20% out of sundry creditors. If the sundry creditors are not genuine, the AO should have made whole of the addition against the assessee, but it would not allow the AO to make 20% of disallowance out of sundry creditors finding the rest of the amount of the creditors to be genuine. It appears that the AO has considered this issue with the eyes of disallowance of part of the expenses which may not be related to the business of the assessee. The way, the AO has decided this ground and made addition of 20% disallowance out of sundry creditors is really surprising and would show that the AO has not applied his mind to this issue as per law and the addition is purely adhoc in nature. – Decided in favor of Assessee.

Addition u/s 68 of the Income Tax Act on unsecured loan taken from different parties – Assessee could not bring out all creditors for examination on the pretext of medical advice etc. – Held that:- as discussed in the cases of various creditors, we find that the assessee has been able to prove the creditworthiness of the creditors and genuineness of the transactions in certain cases of the creditors, for which the additions have been deleted. However, in other cases, the assessee failed to prove the creditworthiness of the creditors and genuineness of the transaction, for which the additions have been sustained. In the result, the appeal of the assessee is partly allowed.

No.- ITA No.115,132/Agra/2011

Dated.- June 28, 2013

Cases relied upon

Allahabad High Court in the case of CIT vs. Pancham Das Jain, 205 CTR 444, in which it was held that provisions of section 68 are not attracted to the amounts representing purchases made on credit

Hon'ble Rajasthan High Court in the case of Aravali Trading Co. vs. ITO, 8 DTR 99, in which it was held that once the existence of the creditors is proved and such person owned the credits, which are found in the books of account, the assessee's onus stands discharged.

ITAT, Ahmedabad Bench in the case of Dhiraj R. Rungta vs. ITO in ITA No. 1687/2010.

ITAT, Agra Bench in the case of Sanjay Gupta vs. ITO (ITA No. 401/2012 dated 10.05.2013