

IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

**BEFORE Dr. O.K.NARAYANAN, VICE-PRESIDENT
AND SHRI HARI OM MARATHA, JUDICIAL MEMBER**

I.T.A. No.702/Mds/2011
Assessment Year : 2006-07

M/s. Southern Metals & Alloys,
No.6, Madhavaram High Road,
Perambur,
Chennai-600 011.
PAN: AACFS0515L

The Assistant Commissioner
of Income Tax-IX, Chennai.
Vs.

(Appellant)

(Respondent)

Appellant by : Mr. Lakshnichand Nahata,
Chartered Accountant

Respondent by : Mr. Shaji P.Jacob, IRS.,
Commissioner of Income Tax

Date of Hearing : 8th December, 2011
Date of Pronouncement : 12th December, 2011

ORDER

PER Dr.O.K.NARAYANAN, VICE-PRESIDENT:

This appeal is filed by the assessee. The relevant assessment year is 2006-07. The appeal is directed against the revision order passed under section 263 of Income Tax Act, 1961 through the proceedings of Commissioner of Income Tax-IX at Chennai on 24.03.2011.

2. The assessment in this case was completed under section 143(3). Later, on verification of the records of the case, the Commissioner of Income Tax found that that the assessing authority has not examined the genuineness of certain trade creditors which was of much importance to the assessment. He accordingly held the assessment order as erroneous and prejudicial to the interest of the Revenue. The assessment order was set aside on this point that assessing authority shall investigate the issue afresh and decide the matter de novo. The assessee is aggrieved and therefore this appeal before us.

3. We heard both sides and considered the issue. The Commissioner of Income Tax has identified trade creditors in whose case the Assessing Officer is directed to make investigation. Those trade creditors are M/s. Sundaram Clayton Ltd.-bd, M/s.Sundaram Clayton Ltd., M/s. Alcast India Ltd., M/s. Hindustan Petroleum Corporation Ltd., M/s.TVS Motor Company Ltd. and M/s.Talluri Flurides & Chemicals.

4. The assessing authority had asked for details in respect of various creditors and in respect of the above stated trade creditors. The assessee had not furnished any particulars before the assessing authority. No confirmations were made by creditors also. On an examination of the records of the case, we find that even though the assessing authority had initiated the process of verifying the genuineness of the trade creditors, he has not brought that process to a logical end. Even though he has raised the issue of trade creditors in the course of assessment proceedings, he has not verified the credits in an objective manner so as to confirm the genuineness of those credits. It is not possible to draw any inference against the assessee. But, at the same time, we find that the order of the assessing authority is erroneous. The issue of trade creditors which was very much alive in the course of assessment proceedings was not at all pursued and examined by the assessing authority while completing the assessment. This has rendered the assessment order erroneous. When the trade credits have not been examined why it was necessary, the omission on the part of the

assessing authority has definitely made out a case of prima-facie prejudice causing to the Revenue. Therefore it is to be seen that for the purpose of section 263, the assessment order is prejudicial, too. In these circumstances there is no ground for us to interfere in the revision order passed by the Commissioner of Income Tax.

5. In result, this appeal filed by the assessee is dismissed.

Order pronounced in the open court on Monday, the 12th December, 2011 at Chennai.

Sd/-
(Hari Om Maratha)
Judicial Member

Sd/-
(Dr. O.K.Narayanan)
Vice-President

Chennai,
Dated the 12th December, 2011.

somu

Copy to: (1) Appellant (4) CIT(A)
(2) Respondent (5) D.R.
(3) CIT (6) G.F.