

**IN THE INCOME TAX APPELLATE TRIBUNAL  
CHANDIGARH BENCH 'A' CHANDIGARH**

BEFORE Ms.SUSHMA CHOWLA, JUDICIAL MEMBER  
AND SHRI MEHAR SINGH, ACCOUNTANT MEMBER

**ITA No. 980/CHD/2010**  
Assessment Year: 2007-08

ITO – V(4),  
Ludhiana.

V

M/s Sains Engg. Works,  
2468, St.No. 2,  
Janta Naghar, Gill Road,  
Ludhiana.

PAN: AAOFS-0680E

(Appellant)

(Respondent)

Appellant by : Shri Akhilesh Gupta  
Respondent : Shri Sudhir Sehgal

Date of Hearing : 26.09.2012  
Date of Pronouncement : 27.09.2012

**ORDER**

**PER MEHAR SINGH, AM**

The present appeal filed by the Revenue is directed against the order dated 12.04.2010 passed by the Id. CIT(A) u/s 250(6) of the Income-tax Act, 1961 (in short 'the Act').

2. In this appeal, the Revenue has raised the following Grounds of Appeal:

- “1. That the Ld. CIT(A)-II has erred in law and on facts in deleting the addition of Rs. 28,00,000/- made by the A.O. on account of unexplained advances received from customers.
2. That the order of the CIT(A)-II be set aside and that of the A.O. be restored.
3. That the appellant craves leave to add or amend any ground of appeal before it is finally disposed off.”

3. In the course of present appellate proceedings, Id. 'DR' after referring the relevant paras of assessment order and

order passed by the CIT(A) placed reliance on the assessment order. Ld. 'AR' supported the findings of the ld. CIT(A).

4. In this case, AO, made an addition of Rs.28,00,000/-, in respect of advances received from M/s Jot Agro Processors Pvt. Ltd. at Rs. 25 lacs and M/s Madura Agro Food Industries at Rs.3 lacs/-. The main addition made by the AO pertains to non-furnishing of PAN and bank account number. However, in the course of appellate proceedings, appellant filed detailed submission which was found plausible explanation within the meaning of provisions of Section 68 and having regard to the factual matrix of the case. CIT(A) deleted the impugned addition, as is evident from para 3 of his findings, reproduced hereunder :

*“3. I have carefully considered the contention of the Ld. Counsel for the appellant, report of the A.O. and perused the relevant record. The A.O. has made addition of Rs.28 lac in respect of advances of Rs.25 lac shown to be received from M/s Jot Agro Processors Pvt. Ltd. and Rs.3 lac from M/s Madura Agro Food Inds.. As far as the advance received from M/s Jot Agro Pvt. Ltd. is concerned, even as per the inquiries made by the AO have been discussed in the assessment order the company was not to be non-existent. The only fact was that the information called for by the A.O. some how could not be received. The main objection of the L A.O. in not accepting this advance to be genuine, was that the PAN of this / company was not mentioned in the confirmations filed by the appellant. However during appeal proceedings the appellant has filed evidence being copies of various documents including confirmed copy of account of the appellant in the books of that company and wherein PAN of the company has been duly indicated. This evidence was admitted as additional evidence for the reasons already discussed in the letter dated 22.2.2010 which has been reproduced in the preceding paragraphs. Accordingly even in the report of the A.O. dated 10.3.2010 as has also been pointed out by the Ld. Counsel, after filing of the*

*additional evidence indicating PAN of M/s Jot Agro Processors Pvt. Ltd., he has not commented adversely about the advance received by the appellant from the said company. In view of the above position there would not remain any ground for making addition in respect of Rs.25 lac shown to be received by the appellant from the said company.*

*3.1 Coming to the amount of Rs.3 lac claimed to be received from M/s Madura Agro Food Inds., as rightly pointed out by the Ld. Counsel, the A.O. made the addition in respect of only the cash amount of Rs.3 lac shown to be received from the said company on 7.3.2006. As far as this entry is concerned, this duly matches with the entries recorded in the books of that company in the account of the appellant which has been referred to by the A.O. and reproduced in the preceding paragraphs. Therefore, the entry of Rs.3 lac having been cross checked with the entries in the books of that company again there is no cause left for making this addition of Rs.3 lac in the hands of the appellant on the ground that the sources of the same had not been explained. Further though the other transactions recorded in the copy of account of the appellant in the books of M/s Madura Agro Food Inds. had not been made the subject matter of any addition in this case by the A.O., he has pointed out certain discrepancies with respect to these entries in his report dated 10.3.2010. However as explained in the submissions of the Ld. Counsel dated 15.03.2010 which have been reproduced above, Rs.2 lac received by the appellant due to an inadvertent error were posted in the account of M/s Nestle India Ltd. by the appellant. This mistake has however subsequently been rectified.*

*3.2 Coming to the journal entry of Rs. 16.38 lac, this is explained to be the amount in respect of term loan from the bank. As further explained, in view of the normal practice in this regard the draft was made by the banker of M/s Madura Agro Food Inds. in the name of the appellant during the preceding year whereas the appellant had supplied the machinery in the subsequent year and the payment was also received at the time of supply. Accordingly the relevant entry was made by the appellant in the subsequent year when the draft was actually received by it. Therefore, both these entries have been accounted for by the appellant and the discrepancies what-so-ever pointed out in the report of the A.O. have been fully explained. Accordingly in respect of the amount claimed to be received from this company also no*

*addition what-so-ever could be validly made. Addition of Rs.3 lac is, therefore, also deleted.*

*3.3 In view of the above discussions addition of Rs.28 lac made to the income of the appellant is deleted and these grounds of appeal of the appellant are allowed.”*

5. We have perused the findings of the AO, and that of the CIT(A) and found that findings of the CIT(A) are in consonance with the relevant provisions of Section 68 of the Act, having regard to the facts of the case. The addition made by the AO is based upon non-application of mind to the facts of the case and non-appreciation of the provisions of Section 68 of the Act. Consequently, ground of appeal of the revenue is dismissed.

6. In the result, appeal of the revenue is dismissed.

Order pronounced in the Open Court on 27<sup>th</sup> Sept.,2012.

Sd/-

Sd/-

(SUSHMA CHOWLA)  
JUDICIAL MEMBER

(MEHAR SINGH)  
ACCOUNTANT MEMBER

Dated: 27<sup>th</sup> Sept.,2012.

‘Poonam’

Copy to:

The Appellant, The Respondent, The CIT(A), The  
CIT,DR

Assistant Registrar, ITAT  
Chandigarh