

Non-confirmation of sums by creditor does not warrant sec. 68 addition if genuineness & identity are proved

Summary – The Allahabad HC in a recent case of Jagdish Prasad Tewari, (the Assessee) held where assessee had made payments to creditors through cheques, merely because some creditors had not confirmed receipts, any addition as cash credit could not be made to assessee's income.

Facts

- The assessee was, a manufacturer of fabrics. It filed its return and had shown sundry creditors.
- On inquiry, notices were sent by the Assessing Officer to the creditors but said notices were received back unserved. Accordingly, the Assessing Officer made an addition to assessee's income on account of cash credit.
- The Commissioner (Appeals) had deleted the said addition.
- However, the Tribunal confirmed the same.
- On further Appeal.

Held

- On a perusal of record, it appears that the sundry creditors were put in various categories. In first category, the name of 'B' was mentioned through its sale agent. The assessee has made the payment through cheque and the same was duly debited in the account of the assessee for the purchase of the raw-materials.
- In another category, the assessee made the payments pertaining to the interest to the creditors and the same was reflected in the separate interest account, which was verified by the Assessing Officer.
- Another category was pertaining to the job work done from a company. All the bills were verified by the Commissioner (Appeals) and it was observed that the payment was duly made by cheque against three bills sent by the company. All the entries are reflected in the books of account.
- The last category was pertaining to the purchase of yarn and job work. The confirmations were received from the creditors in respect of the purchase of yarn. All the purchase vouchers were verified and the payments were made to sales agent by cheque, which is fully supported by documentary evidence.
- Only a few creditors have not sent confirmation but fact remains that they had received the payment through cheque, which were duly reflected in the books of account of the assessee. The Assessing Officer has not verified the same in the books of the recipients and made the addition by adopting short cut method.
- The identity, creditworthiness and genuineness have been proved beyond doubt as observed by the first appellate authority and confirmed by the Tribunal.

- Needless to mention that the first appellate authority has co-terminus power with the power of the Assessing Officer. The appellate authority has all the powers which the original authority has, subject to condition/restriction, if any, prescribed by law.
- In the instant case, concurrent findings have been given by both the appellate authorities and in the absence of any adverse material, the same were to be confirmed.