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T.C.A.No.917 of 2



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on :17.03.2026

Pronounced on : 02.04.2026

CORAM

**THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN  
AND  
THE HONOURABLE MR.JUSTICE SHAMIM AHMED**

T.C.A.No.917 of 2014

M/s AKR Poly Industries,  
No.6/31, A & B North Street,  
Mannarpuram,  
Trichy-620 002,  
PAN:AAGFA3935N

..Appellant/Respondent

/versus/

The Income Tax Officer,  
Ward III(1),  
Trichy.

..Respondent/Appellant

Tax Case Appeal has been filed under Section 260A of Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, Chennai in ITA No.1042/Mds/2012 dated 29.01.2013.

For Appellant :Mr.A.S.Sriraman for  
Mr.S.Sridhar

For Respondent :Mr.V.Mahalingam, SSC and  
Mr.P.E.R.Mangala Suvigaran, JSC

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## **JUDGMENT**

*(Judgment was made by Dr.G.JAYACHANDRAN,J.)*

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The appeal is by the Assessee challenging the order of the Income Tax Appellate Tribunal dated 29.01.2013.

### **2.Facts of the case in brief , are as follows:-**

The Assessee is a Firm engaged in the business of Manufacturing disposable plastic cups. It is a registered Small-Scale undertaking in Pondicherry. On 28.01.2003, it filed its 'return' declaring its income as Rs.Nil and also claimed a deduction of Rs.9,10,600/- under Section 80-IA of the Income Tax Act, 1961 (in short "IT Act"). In the scrutiny proceedings, the Assessing Officer examined the entitlement of the assessee's claim and came to the conclusion that it satisfied all the conditions so as to claim deduction under Section 80-1A(4) of the IT Act. At the same time, the Assessing Officer noticed that in its balance sheet, the assessee had claimed an amount of Rs.30,17,891.78 as sundry creditors. In support of this, the assessee failed to submit all necessary details of the creditors (ie.) their names, amounts and addresses etc., and did not submit confirmations.

3.According to the Assessing Officer, this failure amounted to not discharging its onus of establishing the identity, capacity, genuineness and

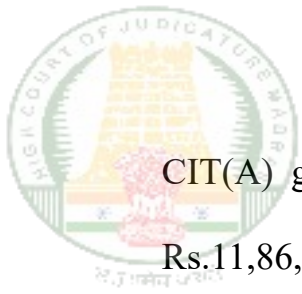


creditworthiness of the creditors. The Assessee prayed before the Assessing Officer that the addition in question under Section 68 of the IT Act cannot be brought under the head “Business Income”. However, the Assessing Officer disagreed to the assessee’s aforesaid prayer.

4. In Assessing Officer’s view, the assessee’s accounts had been duly certified for claiming deduction, it led to the inference that the sundry credits in question had to be treated under the head “income from other sources” as no evidence had been let in to prove that the same had arisen in the assessee’s ordinary course of business. Therefore, in the assessment order dated 30.03.2006, he added an amount of Rs.16,42,093/- under the head “income from other sources” and determined the total income as Rs.16,42,090/-.

5. Aggrieved by the Assessment Order, the Assessee preferred an appeal challenging the addition of sundry credits under the head of “Income from other sources”.

6. On appreciating the facts, the Commissioner of Income Tax (Appeals) held that the assessee was entitled for deduction under Section 80-IB of the IT Act. The addition in question under Section 68 of the IT Act is liable to be treated as business income. The Department, being aggrieved by the order of the



CIT(A) granting deduction under Section 80-IB of the Act to the extent of Rs.11,86,758/- filed an appeal before the Income Tax Appellate Tribunal, 'B' Bench, Chennai, in ITA 1042/Mds/2012.

7. The Tribunal, taking note of the fact that the source of sundry credits has not been proved by disclosing the identity, capacity and creditworthiness of the creditors. So, it held that the addition under Section 68 of the IT Act to the tune of Rs.11,86,758/- was rightly ordered to be treated as assessee's business income. Against this order, the assessee has filed a miscellaneous petition seeking recall of the order on the ground that the judgments cited in favour of the assessee were not taken into consideration in proper perspective. The said Miscellaneous Petition was dismissed by the Tribunal, distinguishing the cases cited by the assessee as it being factually different.

8. This Court admitted the appeal on the following Substantial Questions of Law:-

**(1)Whether the Appellate Tribunal is correct in law in treating the trade credits as deemed income on the application of Section 68 of the Act inspite of the partial acceptance of such amount in the remand proceedings by the respondent?**

**(2)Whether the Appellate Tribunal is correct in**



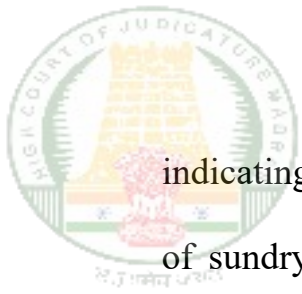
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**law in sustaining the action of the respondent in treating the trade credits assessed as deemed income under the head “Income from other sources” as against the claim for assessment of such deemed income under the head ‘income from business’ in view of the live nexus of the trading transactions with the eligible business which were scrutinized by the respondent and partly treated as deemed income?**

**(3)Whether the Appellate Tribunal is correct in law in not granting enhanced deduction under Section 80 IB of the Act, consequent to the assessment of trade credits as deemed income inspite of the catena of decisions including the decision of this Hon’ble Court reported in [293 ITR 475] and the decision of the Co-ordinate Bench dated 26.07.2012?**

9. The Learned Counsel appearing for the Appellant submitted that sundry creditors shown in the account are duly explained as advanced received from the customers for supply of paper cups and this receipt as advanced is common in the trade practice. However, during the course of assessment proceedings, the assessee failed to furnish details about the name and address of the sundry creditors and failed to give the confirmation letter from them



indicating the date of loan and mode of payment. The list of names and amount of sundry creditors produced by the assessee without any confirmation letter and address of the creditors was not reliable document. Therefore, the Assessing Officer has doubted the genuineness of the cash credit claimed and added the amount of Rs.16,42,093/- as unexplained credit under Section 68 of the IT Act.

10. On appeal, the Appellate Authority was able to find out the details of the sundry creditors to an extent of Rs.4,55,355/- after receiving the remand report from the assessing officer. Therefore, restricted the balance amount of Rs.11,86,758/- as business income of the appellant. The Appellate Authority had further held that the assessee was eligible for the claim under Section 80-IB and directed to allow deduction for the business income under Section 80-IB of the Act.

11. When this order of the Appellate Authority was challenged before the Tribunal, the Tribunal on relying upon the judgment of *Fakir Mohmed Haji Hasan v. CIT* reported in [(2001) 247 IRT 290 (Guj.)] and *ITO v. Dulari Digital Photo Services (P) Ltd.*, reported in [(2012) 24 Taxman.com 31 (CHD)] held that the addition under Section 68 of the IT Act cannot be taken as income under any specific head of income and it cannot be treated as business income.



Therefore, the order of the CIT(A) holding that the addition under Section 68 of the Act in the assessee's case is liable to be treated as assessee's business income, is erroneous. Thus, accepting the appeal of the revenue, order of the appellant authority was set aside and the finding of the assessing officer was restored.

**12.** In the miscellaneous petition filed by the assessee, it as contended that the judgments of the jurisdictional Court namely Madras High Court rendered in *Commissioner of Income Tax v. Abdul Rahman Industries* reported in [(2007)293 ITR 475] and the judgment in *Commissioner of Income Tax v. Margaret's Hope tea Co. Ltd.*, reported in [(1993) 201 ITR 747] were not taken into consideration, therefore, the order of the Tribunal dated 29.01.2013 has to be recalled.

**13.** The above submissions were considered by the Tribunal and held that the judgments of the Jurisdictional High Court were also considered along with the judgments of the other High Courts and recorded that the assessee itself has not treated the impugned receipt to have been arising from the business in its books of account. So, the judgments relied by the assessee rendered in *CIT vs. Abdul Rahman Industries* reported in [293 ITR 475 (Mad)] has no application to the case in hand.



**14.** The short point involved in this case is, whether the source of sundry credits for which the assessee has sought deduction is properly explained. The answer to the point is the key to the substantial questions of law framed.

**15.** The Assessing Officer has found that the source of sundry credits and the mode of payment is not explained by the assessee. The Appellate Authority to an extent of Rs.4,55,355/- found to be explained after getting the remand report from the Assessing Officer and balance remained unexplained. Thus, for the remaining amount of Rs.11,86,758/-, the source is not explained. So, it cannot be treated as sundry credits, but only as an income from the other source under Section 68 of the IT Act.

**16.** Heads of income for the purpose of income tax is classified under the following Five Heads:

- (1)Salaries
- (2)Income from house property
- (3)Profits and gains of business or profession
- (4)Capital gains
- (5)Income from other sources



17. The term “**Cash Credits**” is explained under the Income Tax Act, 1961 in Section 68, which reads as below:-

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**“Cash credits**

*68. Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the (Assessing) Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.”*

18. To take advantage of deduction under Section 80-IA(4) of IT Act, the assessee should explain the cash credit regarding its nature and source. If the assessee fails to explain the nature and the source to the satisfaction of assessing authority, the same has to be charged to income tax of the income of the assessee. To claim deduction under Section 80-IA of the IT Act, the assessee ought to have first declared the sundry credit in question as its income derived from the industrial undertaking.

19. In this case, the assessee has not declared, the cash credit under any of the 5 heads of income. That apart, the source and identity of the creditors are also not placed before the assessing officer to his satisfaction. The appellant authority without any material evidence to satisfy the source and identity of the creditor, has accepted the explanation given by the assessee as satisfactory



**20.** Having failed to claim the receipt as an income arising from the business, naturally it has to be treated as unexplained income and to be taxed. It cannot be exempted under any of the head under Section 80-IA or 80-IB of the IT Act.

**21.**In the result, the Substantial Questions of Law are answered in favour of the revenue by holding that the unexplained credits claimed for deduction squarely falls under Section 68 of the IT Act. The trade credit claimed by the assessee without disclosing the source and identity have no nexus to the business and the income. Accordingly, **this Tax Case Appeal stands dismissed. No costs.**

02.04.2026

Index:Yes  
Neutral Citation:Yes/No  
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To

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**Dr.G.JAYACHANDRAN, J.  
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SHAMIM AHMED, J.**

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