

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, सी.मुंबई ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "C", MUMBAI**

श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं

श्री अश्वनी तनेजा, लेखा सदस्य, के समक्ष

**Before Shri Joginder Singh, Judicial Member, and
Shri Ashwani Taneja, Accountant Member**

**ITA NO.6207/Mum/2013
Assessment Year- 2008-09**

DCIT-10(3), Room No.451, 4 th Floor, Aayakar Bhavan, Maharshi Karve Road, Mumbai-400020	बनाम/ Vs.	M/s CRISIL Risk & Infrastructure Solution Ltd. Central Avenue, Hiranandani Business Park, Powai, Mumbai-400076
(निर्धारिती /Assessee)		(राजस्व /Revenue)
PAN. No.AABCC4655M		

**ITA NO.6338/Mum/2013
Assessment Year- 2008-09**

M/s CRISIL Risk & Infrastructure Solution Ltd. Central Avenue, Hiranandani Business Park, Powai, Mumbai-400076	बनाम/ Vs.	DCIT-10(3), Room No.451, 4 th Floor, Aayakar Bhavan, Maharshi Karve Road, Mumbai-400020
(निर्धारिती /Assessee)		(राजस्व /Revenue)
PAN. No.AABCC4655M		

निर्धारिती की ओर से / Assessee by	Shri Dhanesh Bafna and Ms. Anusha Singh
राजस्व की ओर से / Revenue by	Shri Pradeep Kumar Singh- DR

सुनवाई की तारीख / Date of Hearing :	02/11/2015
आदेश की तारीख /Date of Order:	06/11/2015

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

The Revenue as well as assessee is in cross appeal against the impugned order dated 21/08/2013 of the ld. First Appellate Authority, Mumbai. First, we shall take up appeal of the assessee (ITA No.6338/Mum/2013), wherein, first ground raised pertains to confirming disallowance of Rs.1,37,76,928/- made in respect of bad debts written off by the assessee in its books of accounts u/s 36(1)(vii) r.w.s. 36(2) of the Income Tax Act, 1961.

2. During hearing, the crux of argument advanced by Shri Dhanesh Bafna along with Ms. Anusha Singh, are that the impugned amount was written off as irrecoverable u/s 36(1)(vii) in the books of accounts of the assessee, therefore, the same has to be allowed. It was contended that all asset and liabilities were taken by the assessee including the impugned debts by further submitting that the income was offered in the principle company and this factum has been accepted by the Assessing Officer in the remand report. Reliance was placed upon the decision in 354 ITR 25 and 22 taxman 45 (SC). On the other hand, ld. DR, Shri Pradip Kumar Singh, defended the conclusion arrived at in the impugned order by supporting the observation made in the assessment order.

2.1. We have considered the rival submissions and perused the material available on record. The facts, in brief,

are that the assessee is engaged in the business of providing advisory services to corporate, banks, financial institution, State and Central Government. It also provides risk management services to assist bank, financial institution, financial services companies, etc to de-risk pricing and lending decisions, to improve operation efficiencies through credit risk evaluation and credit management. The assessee declared total income of Rs.4,50,86,878/- in its return filed on 27/09/2008. The assessment was framed u/s143(3) of the Act on 26/11/2010 assessing the total income at Rs.9,71,27,763/-. The assessee wrote off bad debts amounting to Rs.1,37,76,928/- and claimed the same as deduction u/s 36(1)(vii) r.w.s 36(2) of the Act while computing its total income. The ld. Assessing Officer while framing the assessment disallowed the claimed deduction of bad debt on the reason (i) that said amount was never offered as income and merely it is reimbursement of expense incurred on behalf of the clients, (ii) no details were submitted that such expenses were incurred, and (iii) the amount written off does not represent debt as the same was not offered to tax. During assessment proceedings itself, the assessee provided the party-wise details of bad debts written off vide letter dated 30/08/2010. However, the ld. Assessing Officer considered the entire amount of bad debt written off as forming part of expenses incurred on behalf of the clients. The assessee offered the impugned amounts for taxation in earlier years, however, since the same were not recovered, the same were written off by the assessee. Even otherwise, in

view of the amendment in the taxation laws with effect from 01st April, 1989, the requirement of demonstrating that the debts has become bad has been dispensed with and only requirement remains that it should be written off in books of accounts of the assessee. It has been further clarified by CBDT Circular No.551 dated 23/01/1990. Our view find support from the ratio laid down in CIT vs Brilliant Tutorials Pvt. Ltd. 292 ITR 399 (Mad.), CIT vs Morgan Securities and Credits Pvt. ltd. (210 CTR 336)(Del.), DCIT vs Oman International Bank Saog. (313 ITR 128)(Bom.), CIT vs Star Chemicals (Bom.) Pvt. Ltd. 220 CTR 319 (Bom.), CIT vs Global Capital Ltd. 201 taxation 210 (Del.), CIT vs M/s Excel Fashion Pvt. Ltd. (201 taxation 216)(Del), CIT vs Auto meters Ltd. 292 ITR 345 (Del.). In view of these facts and the judicial pronouncements discussed hereinabove, this ground of the assessee is allowed.

3. The next ground pertains to disallowance of Rs.2,02,55,399/- made u/s 40(a)(ia) of the Act on account of non-deduction of tax at source on the expenses reimbursed by the assessee to CRISIL Ltd., its parent company.

3.1. The crux of argument advanced on behalf of the assessee is that the assessee used to share common facilities/common office and the holding company deducted taxes wherever applicable. Our attention was invited to page 185 of the paper book. It was contended that certificate of the holding company is available at page 181 of the paper book. On the other hand, the ld. DR, strongly objected to the

claim of the assessee by inviting our attention to table –A at page 185 of the paper book.

3.2. We have considered the rival submissions and perused the material available on record. We note that the brake up of reimbursement of expenses is available at table-A (Page-185) of the paper book, which includes advertisement expenses, equipment hire charges, equipment maintenance charges (Admin), equipment maintenance (IT), professional fee, professional fees (fee includes OPE, rent, ors, rent (staff), Other repair and maintenance, repair and maintenance (Building). If the nature and the extent of these expenses/claims are analyzed, in our view, merely a hutch pouch has been made by the assessee in its claim and factually the claim is not clear, therefore, this issue is sent to the file of the Assessing Officer to examine the claim of the assessee at length in accordance with law. The Assessing Officer is also directed to examine such claim in holding company/assessee. The assessee is directed to produce the details of the claim for the examination/verification by the ld. Assessing Officer. Thus, this ground of the assessee is allowed for statistical purposes only.

Thus, the appeal of the assessee partly allowed for statistical purposes.

4. Now, we shall take up appeal of the Revenue (ITA No.6207/Mum/2013), wherein, the first ground pertains to deleting the addition of Rs.1,44,36,142/- on account of

disallowance of reimbursement of expenses. During hearing, ld. DR defended the conclusion arrived at in the assessment order, whereas, the ld. counsel for the assessee defended the conclusion arrived at in the impugned order.

4.1. We have considered the rival submissions and perused the material available on record. We note that the assessee made claim of Rs.3,46,91,541/- towards reimbursement of expenses by the assessee to CRISIL ltd.. The Assessing Officer has discussed this issue in para 5.1 to 5.3 of the assessment order. The view of the Assessing Officer is that the major expenditures were towards reimbursement of rent and further the premises were jointly occupied by both. During first appellate stage, certain additional evidences, through letter dated 21/01/2011 were received from CRISIL along with break up of reimbursement of expenses divided into three baskets. Remand report was sought from the Assessing Officer, which has been discussed at page-9 of the impugned order along with submissions of the assessee dated 27/05/2011 (para -3.3 of the order in appeal). The break up of the expenditure is available in the table at page 11 & 12 of the impugned order, on examination of the break up of the expenses, in the light of certain case laws, the ld. Commissioner of Income Tax (Appeals) uncontrovertedly found that the category of expenses (A, B & C), the TDS provisions were applicable. The details were examined by the ld. Commissioner of Income Tax (Appeals) and some of the expenditure warrants TDS. The conclusion

arrived by the Id. Commissioner of Income Tax (Appeals) was arrived at after examination of facts and then only the disallowance was restricted to Rs.2,02,55,399/-. In view of this uncontroverted finding, we affirm the stand of the Id. Commissioner of Income Tax (Appeals), thus, we find no merit in the impugned ground of the Revenue.

5. The next ground pertains to deleting the addition of Rs.32,72,415/- on account of non-reconciliation of AIR information. The crux of arguments advanced on behalf of the Revenue is identical to the ground raised, whereas, the Id. counsel for the assessee defended the conclusion arrived at in the impugned order.

5.1. We have considered the rival submissions and perused the material available on record. If the observation made in the assessment order, leading to addition made to the total income, conclusion drawn in the impugned order, material available on record, assertion made by the Id. respective counsels, if kept in juxtaposition and analyzed, so far as, alleged un-reconciled amount of Rs.24,50,344/- is concerned, confirmation letter, to this effect, was obtained from Kotak Mahindra Bank Ltd. and the same was filed by the assessee vide letter dated 15/03/2012 before the Assessing Officer. Thus, the entry in respect of this amount was not correct in AIR information, consequently, we affirm the stand of the Id. Commissioner of Income Tax (Appeals). So far as, the sum of Rs.29,495/- with respect to M/s BKC construction Pvt. Ltd. was shown twice in ITS at serial no.19

& 14, thus, this amount was rightly deleted. So far as, the amount of Rs.7,41,576/- related to M/s Lanco Infratech Ltd. is concerned, the assessee filed the confirmation from M/s Lanco Infratech Ltd. and instead of entering PAN of M/s CRISIL, the PAN of the assessee was wrongly entered while filing the quarterly TDS statement. Confirmation from M/s CRISIL was also obtained to this effect, therefore, totality of facts, clearly indicates that there is no infirmity in the finding of the Id. Commissioner of Income Tax (Appeals), therefore, the stand of the Id. First Appellate Authority is affirmed.

The appeal of the Revenue is dismissed.

Finally, the appeal of the assessee is partly allowed for statistical purposes, whereas the appeal of the Revenue is dismissed.

This Order was pronounced in the open court in the presence of Id. representatives from both sides at the conclusion of the hearing on 02/11/2015.

Sd/-

(Ashwani Taneja)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 06/11/2015

Shekhar. P.S. नि.स.

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai.