

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member
and Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 234/KOL/ 2012
Assessment Year : 2008-2009**

***Joint Commissioner of Income Tax (OSD),.....Appellant
Circle-8, Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, 5th Floor,
Kolkata-700 069***

-Vs.-

***M/s. Likhani Leasing Limited,.....Respondent
31, J.L. Nehru Road,
Kolkata-700 016
[PAN : AAACL 2059 H]***

Appearances by:

*Shri Sital Ch. Das, JCIT, Sr. D.R., for the Department
Shri A.K. Gupta, FCA, for the assessee*

Date of concluding the hearing : November 16, 2015

Date of pronouncing the order : November 20, 2015

O R D E R

Per Shri P.M. Jagtap:-

This appeal filed by the Revenue is directed against the order of Id. Commissioner of Income Tax (Appeals)-VIII, Kolkata dated 29.11.2011 for the assessment year 2008-09.

2. The main issue involved in this appeal as raised in the revised Ground No.1 relates to the deletion by the Id. CIT(Appeals) of the disallowance of Rs.2,29,56,490/- made by the Assessing Officer on account of bad debts.

3. The assessee in the present case is a Company, which is engaged in the business of financing, investment and trading in shares. The return of income for the year under consideration was filed by it on 24.09.2008 declaring a loss of Rs.1,38,22,439/-. In the Profit & Loss Account filed along with the said return, a provision for doubtful debts amounting to Rs.2,29,56,490/- made in the earlier years was written back and credited. At the same time, a similar amount was debited by the assessee to the Profit & Loss A/c on account of bad debts and the same was deducted while computing the total income for the year under consideration. According to the Assessing Officer, this treatment given by the assessee resulted in double deduction of the same amount of bad debts, inasmuch as the provision for doubtful debts made in the earlier years was not offered by the assessee thereby claiming the deduction twice, firstly by debiting the amount of bad debts to the Profit & Loss Account and then again claiming deduction for the same in the computation of total income. He, therefore, made an addition of Rs.2,29,56,490/- and determined the total income of the assessee at Rs.91,87,750/- in the assessment completed under section 143(3) vide an order dated 16.12.2010.

4. Against the order passed by the Assessing Officer under section 143(3), an appeal was preferred by the assessee before Id. CIT(Appeals) challenging the addition of Rs.2,29,56,490/- made by the Assessing Officer. During the course of appellate proceedings before the Id. CIT(Appeals), it was submitted by the assessee that out of the total provision made for bad debts in the earlier years, a sum of Rs.91,27,733/- was in respect of its own debts while the balance amount of Rs.1,38,28,757/- was in respect of debts belonging one of its amalgamating Companies, namely Bindal Leasing & Fiscal Services Limited. It was submitted that although these provisions were made in the books of account for the earlier years, no deduction was claimed either by the assessee-Company or by its amalgamating Company in the computation of total income and there was thus no question of making

the claim twice, as alleged by the Assessing Officer. In support of this contention, relevant documentary evidence in the form of annual accounts and computation of total income for the relevant years were filed by the assessee and after verifying the same, the Id. CIT(Appeals) found that no deduction was claimed by the assessee-company or its amalgamating Company while computing the total income for the years in which the provision for doubtful debts was made. He found that the deduction on account of bad debts was claimed by the assessee for the first time in the year under consideration and the finding of the Assessing Officer that there was double deduction claimed by the assessee for the same amount was without any basis or material on record. Accordingly, the addition made by the Assessing Officer by way of disallowance of bad debts was deleted by the Id. CIT(Appeals).

5. We have heard the arguments of both the sides and also perused the relevant material available on record. Ld. Counsel for the assessee at the time of hearing has taken us through the relevant documentary evidence in the form of final accounts and computation of total income of the assessee-Company as well as the concerned amalgamating Company for the relevant years to show that there was no deduction claimed by them on account of bad debts when the provision was made. He has also invited our attention to the Profit & Loss Account and computation of total income of the assessee-Company for the year under consideration to show that after reversal of the provision made in the earlier year, the amount of bad debts was debited to the Profit & Loss Account thereby nullifying its effect on profit and then deduction was claimed in the computation of total income on account of bad debts. It is thus clear that no deduction on account of relevant bad debts was claimed by the assessee-Company or even by its amalgamating Company in the earlier years and it was only in the year under consideration that the deduction on account of bad debts was claimed by the assessee that too only once and not twice, as alleged by the Assessing Officer. We, therefore, find no infirmity in the impugned order of the Id. CIT(Appeals) deleting the

disallowance made by the Assessing Officer on account of assessee's claim for bad debts and upholding the same, we dismiss Ground No. 1 of the assessee's appeal.

6. As regards the other issue raised by the Revenue in Ground No. 2 of its appeal that the Id. CIT(Appeals) has erred in not considering computation of tax liability under section 115JB of the Act, we find that the total income of the assessee for the year under consideration having been computed by the Assessing Officer as per the normal provision of the Act at Rs.91,87,750/-, the working of book profit made by the assessee as per section 115JB at a loss of Rs.86,526/- was not verified by the Assessing Officer. Now that we have upheld the impugned order of the Id. CIT(Appeals) deleting the disallowance of Rs.2,29,56,490/- made by the Assessing Officer on account of bad debts, the total income of the assessee as finally assessed under the normal provision of the Act would be loss and consequently it becomes relevant to verify the working of book profit under section 115JB as made by the assessee at a loss of Rs.86,526/-. We, therefore, allow Ground No. 2 of the Revenue's appeal and direct the Assessing Officer to verify the working of book profit as made by the assessee under section 115JB.

7. In the result, the appeal of the Revenue is partly allowed.

Order pronounced in the open Court on November 20, 2015.

Sd/-

(S.S. Viswanethra Ravi)
Judicial Member

Sd/-

(P.M. Jagtap)
Accountant Member

Kolkata, the 20th day of November, 2015

- Copies to : (1) **Joint Commissioner of Income Tax (OSD),
Circle-8, Kolkata,
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- (2) **M/s. Likhmi Leasing Limited,
31, J.L. Nehru Road,
Kolkata-700 016**
- (3) *Commissioner of Income-tax (Appeals)-VIII, Kolkata*
(4) *Commissioner of Income Tax, Kolkata*
(5) *The Departmental Representative*
(6) *Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.