



IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

ITA no.5299/Mum./2016
(Assessment Year : 2011-12)

M/s. Mediaedge Cin India Ltd.
Commerz, 9th Floor, International
Business Park, Oberai Garden City
Off W.E. Highway, Goregaon (W)
Mumbai 400 063 – AAACF4315L

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-12(3)(2), Mumbai

..... Respondent

Assessee by : Shri Ajit Shah
Revenue by : Ms. Pooja Swaroop

Date of Hearing – 22.02.2018

Date of Order – 28.02.2018

ORDER

PER SAKTIJIT DEY, J.M.

This is an appeal by the assessee against order dated 27th April 2016, passed by the learned Commissioner (Appeals)-20, Mumbai, for the assessment year 2011-12.

2. The solitary issue arising for consideration in this appeal is relating to addition of ₹ 67,68,999, being provision for bad and doubtful debt, to the book profit computed under section 115JB of the Income Tax Act, 1961 (for short "*the Act*").

3. Brief facts are, the assessee a company filed its return of income for the impugned assessment year on 30th November 2011, declaring total income of ₹ 2,65,58,720. During the assessment proceedings, the Assessing Officer found that while computing book profit under section 115JB of the Act, assessee has deducted the provision for bad and doubtful debt amounting to ₹ 67,68,999. The Assessing Officer being of the view that provision for doubtful debt has to be added to the book profit as per clause (i) of Explanation-1 to section 115JB of the Act, added back the amount to the book profit computed by him. Being aggrieved of such addition, assessee preferred an appeal before the first appellate authority.

4. The learned Commissioner (Appeals) after considering the submissions of the assessee, however, agreed with the Assessing Officer that in view of the provision contained under clause (i) of Explanation1 to section 115JB of the Act, introduced to the statute with retrospective effect from 1st April 2001, the provision for bad and doubtful debt has to be added back to the book profit. Accordingly, he upheld the decision of the Assessing Officer.

5. The learned Authorised Representative submitted that the amount in dispute is not a mere provision but is ascertained as the

assessee has actually reduced it from the book debts by removing it from the asset side of the Balance Sheet. Therefore, he submitted, the amount in question cannot be added to the book profit. In support of his contention, the learned Authorised Representative relied upon the following decision:—

- i) *CIT v/s HCL Comnet Systems & Services Ltd. [2008] 174 Taxman 118 (SC);*
- ii) *CIT v/s Vodafone Essar Gujarat Ltd. [2017] 85 taxmann.com 32 (Guj.); and*
- iii) *CIT v/s Indian Petrochemicals Corporation Ltd., [2016] 74 taxmann.com 163 (Guj.).*

6. The learned Departmental Representative submitted, the amount in dispute debited to the Profit & Loss account being a provision for bad and doubtful debt is to be treated as unascertained liability as per clause (c) of Explanation-1 to section 115JB of the Act, and has to be added back to the book profit.

7. We have considered rival submissions and perused materials on record. As could be seen from the material on record, both the Assessing Officer and the learned Commissioner (Appeals) have added back the amount of ₹ 67,68,999 to the book profit by treating it as a provision for diminution in the value of asset as per clause (i) of Explanation-1 to section 115JB of the Act. Therefore, the contention of

the learned Departmental Representative that the amount in dispute is in the nature of unascertained liability as per clause (c) of Explanation-1 to section 115JB of the Act is unacceptable. More so, in view of the decision in case of *CIT v/s HCL Comnet Systems & Services Ltd.(supra)*. In any case of the matter, the amount in dispute being recorded as a debt in the books of account has to be treated as an asset and not liability. Reverting back to the issue in dispute, it needs to be examined whether the deduction claimed by the assessee is in the nature of a provision or not. It is the contention of the learned Authorised Representative that the assessee has reduced the debt from the asset side of the Balance Sheet, meaning thereby, the amount in dispute has actually been reduced from the book debts. Hon'ble Supreme Court in case of *Southern Technologies v/s JCIT*, [2010] 320 ITR 577 (SC), has held that if an assessee debits an amount of bad and doubtful debt to the Profit & Loss account and credits the asset side like sundry debtors account, it would constitute a write-off of an actual debt. Referring to the aforesaid decision, the Hon'ble Supreme Court in *Vijaya Bank v/s CIT*, [2010] 323 ITR 166 (SC) held that if the assessee besides debiting the Profit & Loss account and creating provisions for bad and doubtful debt, had simultaneously obliterated the said provision from its accounts by reducing the corresponding amount from loans and advances / debtors

on the asset side of the Balance Sheet and consequently, at the end of the year, the figure of loans and advances of the debtors on the asset side of the Balance Sheet was shown as net of the provision for the bad debt, it will constitute actual write-off of the bad debt. The same principle has been reiterated in the case of CIT v/s Vodafon Esser Gujarat Ltd. (supra) and CIT v/s Indian Petro Chemicals Ltd. (supra). Thus, in the context of the principle laid down in the decisions referred above, the claim of the assessee that the amount in dispute is not merely a provision but an actual write-off requires to be examined afresh. Therefore, we restore the issue to the file of the Assessing Officer for verifying assessee's claim and deciding the issue in accordance with and keeping in view the relevant statutory provisions and the ratio laid down in the decisions referred to above. Needless to mention, the Assessing Officer must afford reasonable opportunity of being heard to the assessee before deciding the issue.

8. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in the open Court on 28.02.2018

Sd/-
RAJESH KUMAR
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 28.02.2018

Copy of the order forwarded to:

- (1) The Assessee;*
- (2) The Revenue;*
- (3) The CIT(A);*
- (4) The CIT, Mumbai City concerned;*
- (5) The DR, ITAT, Mumbai;*
- (6) Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

(Asstt. Registrar/Sr.P.S)
ITAT, Mumbai