

IN THE INCOME TAX APPELLATE TRIBUNAL  
"E" Bench, Mumbai  
Before Shri B.R. Baskaran (AM)& Ramlal Negi (JM)

I.T.A. No. 5817/Mum/2013  
(Assessment Year 2008-09)

DCIT 1(3) 564, 5 <sup>th</sup> Floor Aayakar Bhavan M.K. Road Mumbai-400 020. (Appellant)	Vs.	M/s. Times Guarantee Ltd. Ground Floor The Times of India Building Dr.D.N. Road Mumbai-400 001. (Respondent)
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PAN No.AABCT2481Q

Assessee by	Shri V. Mohan
Department by	S/Shri Suman Kumar & J. Saravanan
Date of Hearing	6.10.2016
Date of Pronouncement	6.10.2016

ORDER

Per B.R. Baskaran (AM) :-

The appeal filed by the Revenue is directed against the order dated 29.4.2013 passed by learned CIT(A)-7, Mumbai and it relates to A.Y. 2008-09.

2. The Revenue is aggrieved by the decision in deleting the disallowance of bad debts claim of ₹ 1.05 crores.

3. We have heard the parties and perused the record. The assessee is engaged in the business of finance, advisory services and investment activities. In the return of income the assessee claimed deduction towards bad debts for a sum of ₹ 1,05,66,493/- and the same related to a loan of ₹ 53 lakhs paid to Shri Pradeep Kothari long back. During the year under consideration, the assessee company negotiated with the above said person and on one time settlement basis, the debtor agreed to pay a sum of ₹ 35,00,000/-. Accordingly, the assessee wrote off the principal component of ₹ 18,00,000/- and also wrote off accumulated interest balance of ₹ 87.55 lakhs. Thus the

aggregate amount of Rs.1.05 crores was claimed as bad debts. The assessee had created provision for doubtful debts in respect of these advances in the earlier years. Since the assessee wrote off the amount as bad debts, provision was no longer required and accordingly credited the same to the profit and loss account. The Assessing Officer took the view that question of allowing provision for doubtful bad debts does not arise in the current year and accordingly disallowed bad debts claim made by the assessee.

4. Learned CIT(A) allowed the claim of the assessee by following the decision rendered by Hon'ble Supreme Court in the case of TRF Ltd. Vs. CIT, 323 ITR 397. Aggrieved, the Revenue has filed this appeal before us.

5. Learned Departmental Representative submitted that the assessee has not shown that it had declared interest of ₹ 87.55 lakhs as bad debts income in the past years. Further he submitted that the assessee has claimed principal component of the advances also as deduction, which is not allowable.

6. On the contrary, learned AR submitted that the assessee is carrying on financial activities also and hence principal component of the loan is allowable as deduction, if the same is written off as bad debts. With regard to the interest component, learned AR submitted that the assessee will be in a position to show that the same has been offered for taxation in the earlier years.

7. We have heard the rival contentions and perused the record. From the first page of the assessment order, we notice that the Assessing Officer himself has noted that the nature of business of the assessee is finance activities, recovery of past dues, advisory and investment services. Learned AR also submitted that the assessee is a finance company. Under these set of facts and also in view of the provisions of section 36(2)(i), principal component of loan of ₹ 18 lakhs, which was written off as bad debts, is allowable u/s. 36(1)(vii) of the Act, since it was given in the normal course of financing business. With regard to writing off of interest component as bad, the only contention of the

Revenue is that the assessee has not shown that the same was offered as income in the earlier years. Since learned AR submitted that the assessee could furnish the relevant details, we are of the view that this issue needs to be set aside to the file of the Assessing Officer for the purpose of examining the details of income offered by the assessee in the earlier years. Accordingly, we modify the order of learned CIT(A) and restore the issue relating to the interest component written off as bad to the file of the Assessing Officer with the direction to examine as to whether the same has been offered as income in any of the years. The assessee is also directed to furnish the relevant details to the Assessing Officer. After hearing the assessee, the Assessing Officer may take appropriate decision in accordance with law.

8. In the result, appeal filed by the Revenue is allowed for statistical purposes.

Order has been pronounced in the Court on 06.10.2016

Sd/-  
(RAMLAL NEGI)  
JUDICIAL MEMBER

Sd/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 06/10/2016

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai