

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

**BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER  
and  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No.2153/Bang/2017  
(Assessment year: 2014-15)

M/s.Hajee A.P.Bava & Company Constructions  
Pvt. Ltd.  
HAPBCO Tower, #32, 9<sup>th</sup> Main Road,  
RPC Layout, Vijayanagar,  
Bengaluru-560104. ... Appellant  
*PAN:AACCH1218C*

Vs.

Asst. Commissioner of Income-tax,  
Circle 3(1)(2),  
Bengaluru. ... Respondent

Appellant by : Shri Cheriyan Baby, CA.  
Respondent by : Shri C.H.Sundar Rao, CIT(DR).

Date of hearing : 17/01/2018  
Date of pronouncement : 20/04/2018

**ORDER**

**Per INTURI RAMA RAO, AM :**

This is an appeal filed by the assessee directed against the order of the learned Commissioner of Income-tax (Appeals)-3, Bengaluru [CIT(A)] dated 20/09/2017 for the assessment year 2014-15.

2. The assessee raised the following grounds of appeal:

1. The learned AO erred in disallowing and the learned CIT(A) erred by sustaining the disallowance of provision for doubtful debt of Rs. 11,45,33,140/- u/s 36(1)(vii) of the Act without appreciating the fact that the said provision has been made against specific and identified trade receivables, which was reduced from the receivables in the financial statements and was not in the nature of a general or statistical provision, in spite of the fact that the decision of the Hon'ble Supreme Court in the case of *Vijaya Bank vs. CIT [2010] 323 ITR 166 (SC)* applies squarely to the facts of your appellant.
2. The learned CIT(A) grievously erred in concluding that the journal entry passed by your appellant on 31<sup>st</sup> March 2014 in respect of transferring the retention money to the respective debtor's account was to 'increase' your appellant's debts and also by erroneously concluding that the said retention money has never been offered as income by your appellant.

3. For these and other grounds that may be adduced at the time of hearing, the order of the learned Assistant Commissioner of Income Tax, Circle 3(1)(2), Bangalore, may be set aside to the extent appealed against and this appeal be allowed.

3. Briefly, facts of the case are that the appellant is a company duly incorporated under the provisions of the Companies Act, 1956. It is engaged in the business of property development. Originally, the return of income for the assessment year 2014-15 was filed on 30/11/2014 declaring income of Rs.20,83,75,020/-. Against the said return of income, assessment was completed by the Asst. Commissioner of Income-tax, Circle 3(1)(2), Bengaluru [AO] vide order dated 19/12/2016 passed u/s 143(3) of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short] at total income of Rs.32,29,08,160/-. While doing so, the AO disallowed provision for bad and doubtful debts of Rs.11,45,33,140/- debited to P&L Account on the ground that debts have not been written off in the books of account. The contention of the appellant that reducing the provision for bad and doubtful debts from sundry debtors account in the balance-sheet, debiting to P&L account constitutes write off, had been rejected by the AO, as it is found from the ledger extract of the account that individual account of the party had not been squared off.

4. On appeal before the Id.CIT(A), the Id.CIT(A) also confirmed the findings of the AO.

5. Being aggrieved, the assessee is in appeal before us in the present appeal.

6. Learned AR of the assessee contended that the assessee had executed works contract of M/s ABGC Kutch. The amount due from the said company including opening balance was considered as irrecoverable and accordingly a sum of Rs.11,45,33,140/- was provided towards bad and doubtful debts and the same was reduced in the receivables accounts of the balance sheet and debited to P&L Account, this constitutes write off as per judgment of the Hon'ble Apex Court in the case of *Vijaya Bank vs. CIT* (323 ITR 166).

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On the other hand, Id.CIT(DR)/ relied on the decision of the Hon'ble Apex Court in the case of *Southern Technologies Ltd. vs. JCIT*(320 ITR 577) in support of the proposition that provision for bad and doubtful debts is not allowable as deduction.

7. We heard rival submissions and perused the material on record. The grounds of appeal in the present appeal relate to allowance of provision for bad and doubtful debts. The provisions of section 36(1)(vii) provide for deduction of bad debts, if the amount had been written off in the books of account and the debt representing income which had been offered to tax in earlier assessment years. In the present case, it is the case of the assessee that it had executed contract work for one company viz. M/s ABGC Kutch and the amount due from this company had been written off as irrecoverable in the form of provision for bad and doubtful debts which is debited to P&L Account and reduced from sundry debtors account in the balance sheet. AO, after perusing ledger extract of this company in the books of the assessee, had come to conclusion that this amount had not been written off in the books of account. On appeal before the Id.CIT(A), the Id. CIT(A) observed that the outstanding amount due from said party was increased by passing journey entry of Rs.3,79,84,917/- as on the last day of the financial year and taking into consideration this entry, the Id.CIT(A) observed that income which was recognized cannot be immediately written off. He further observed that the other requirements laid down us/ 36(2) of the Act that debt had been offered to tax, had not been satisfied and therefore, disallowed the claim. Even before us, the assessee had not placed any evidence rebutting the observation made by the Id.CIT(A). Further the assessee had not produced any evidence to show that debt stated to be written off during previous year relevant to this assessment year had been offered to tax in earlier assessment year. We perused copy of ledger account of the said company in the books of the assessee extracted in the assessment order. From mere perusal of the ledger account, it is clear that opening balance of Rs.8,91,12,550.61 was shown as due from the said company and during the course of the year under consideration, the said party was debited on account of recoveries made towards statutory levies such as

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cess and sales tax and TDS recovery etc. Further, as on the end of the accounting year 31/3/2014 a sum of Rs.3,79,64,917.38 was debited by passing journal entry, it is not even clear whether this amount was offered to tax. Mere wrong entry in the books of account does not constitute debt which can be written off. These amounts are not due from said party nor in the nature of subsisting debit. Furthermore, the requisite condition for allowance as bad debts that debt should have been offered to tax in earlier assessment year is also not satisfied. The case-laws relied on by the assessee do not come to the rescue of the assessee as what is claimed to be written off is not a debt. Therefore, the claim made by the assessee cannot be allowed under the provisions of section 36(1)(vii) of the Act. The grounds of appeal filed by the assessee are dismissed.

8. In the result, the appeal filed by the assessee is dismissed

*Order pronounced in the open court on this 20<sup>th</sup> April, 2018*

Sd/-  
**(SUNIL KUMAR YADAV)**  
**JUDICIAL MEMBER**

Place : Bangalore  
D a t e d : 20/04/2018  
*srinivasulu, sps*

**Copy to :**

- 1 Appellant
- 2 Respondent
- 3 CIT(A)
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

By order

Senior Private Secretary  
Income-tax Appellate Tribunal  
Bangalore