

IN THE INCOME TAX APPELLATE TRIBUNAL

AHMEDABAD “B” BENCH

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER)**

**ITA. No: 1323 & 1249/AHD/2017
(Assessment Year: 2013-14)**

A.C.I.T., Circle-4(1)(2), Ahmedabad	V/S	M/s. Voltamp Transformers Limited 312, Sanman-II, Opp. Reliance Petrol Pump, Prhladnagar, Satellite, Ahmedabad- 380051
(Appellant)		(Respondent)

PAN: AAACV5048G

**Appellant by : Shri Anandkumar Sr. D.R.
Respondent by: Shri Ashwin Shah & Bhadresh Gandhakwala**

(आदेश)/ORDER

Date of hearing : 08 -05-2019
Date of Pronouncement : 13 -05-2019

PER AMARJIT SINGH, A.M.

1. ITA Nos. 1323 & 1249/Ahd/2017 are cross appeals by the Revenue and the Assessee preferred against the order of the Ld. CIT(A)-8, Ahmedabad dated 03.03.2017 pertaining to A.Y. 2013-14.

ITA No. 1323/Ahd/2017 of Revenue's Appeal

2. The brief facts of the case are that assessee has filed return of income declaring income of Rs. 40527601/- on 25.09.2013. Subsequently, the case was selected under scrutiny by issuing of notice u/s. 143(2) of the Act on 08.09.2014. The assessee company was engaged in the business of manufacturing of Transformers. The remaining fact of the case are discussed by adjudicating the different ground of appeal filed by the assessee as under.
3. 1st ground is with regard to deleting the addition of Rs. 2,98,57,398/- in respect of CENVAT credit receivable u/s. 145A of the Act.
4. During the course of assessment proceedings, the A.O. has noticed that assessee has shown amount receivable on account of unutilized/closing balance on account of MODVAT/CENVAT credit under the head "Loans and Advances" and the same was not included in the value of closing stock. The A.O. was of the view that as per provision of Section 145A such taxes were required to be included in the value of closing stock. The assessee has explained that it has followed the exclusive method of accounting and has also submitted the statement showing that after following the inclusive method of accounting, there was no effect/impact in the Profit and Loss account. The A.O. has not accepted the submission of the assessee and stated that as per the provision of Section 145A, all the taxes/duty/cess/fee have to be included while valuing the closing stock of inventory. Consequently, the A.O. has included the sum of Rs. 2,98,57,398/- pertaining to CENVAT

credit receivable and service tax receivable in the value of closing stock as on 31.03.2013 and added to the total income of the assessee.

5. Aggrieved, assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has allowed the appeal of the assessee stating that on the similar issue and fact, the ITAT Bench in the case of the assessee itself for assessment year 2009-10 has held that no addition can be made u/s 145A of the Act since the assessee has followed the exclusive method.
6. 2nd ground is with regard to deleting the addition of Rs. 69,22,190/- on account of disallowance u/s 14A r.w.r 8D.
7. During the assessment proceedings, the A.O. has noticed that assessee has earned exempt income of Rs. 2,40,90,979/-. However, against the said income, the assessee has disallowed expenditure of Rs. 20,25,500/- u/s. 14A as expenditure relating to the exempt income. The A.O. has stated that assessee has made substantial amount of investment in various mutual fund, however, it has not given working of disallowing the aforesaid amount of Rs. 20,25,508/- u/s. 14A of the Act. Therefore, assessee was asked to explain why not disallowance should be worked out according to section 14A r.w.r. 8D of the I.T. Rule. The assessee has explained that the collection of mutual fund dividend was received by electronic mode and there was no question of incurring any more expenditure and actual expenditure incurred has already been disallowed. It is further stated that assessee has not incurred any interest expenditure. The A.O. has not accepted the explanation of the assessee stating that assessee has not submitted day to day fund flow invested in the shares and mutual funds. It was also stated that the assessee

- could not prove that there was no diversion of interest bearing fund towards investment in the mutual fund. Thereafter, the A.O. has computed disallowance u/s. 14A of the Act in accordance with the provision of rule 8D to the amount of Rs. 89,47,690/- and after reducing the disallowance made by the assessee itself of Rs. 20,25,500/-. He has made addition of Rs. 69,22,190/- u/s. 14A of the Act.
8. Aggrieved, assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has allowed the appeal of the assessee by following the decision of ITAT, Ahmedabad on the same issue and similar facts in the case of assessee itself in assessment year 2009-10.
 9. 3rd ground is with regard to deleting the addition of Rs. 69,22,190/- made to the book profit on account of disallowance u/s. 14A r.w.r. 8D.
 10. The Assessing Officer has computed the book profit u/s. 115JB and in the computation he has added the amount of Rs. 69,22,190/- which was disallowed u/s. 14A r.w.r. 8D of the Act.
 11. Aggrieved, assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has allowed the appeal of the assessee after referring the case of Hon'ble Gujarat High Court in the case of Gujarat State Fertilizer & Chemical Ltd. 358 ITR 323 stating that if the addition is deleted in regular assessment, the question of any addition u/s. 115JB does not arise.
 12. 4th ground is with regard to deleting the addition of Rs. 1,89,16,687/- on account of provision of doubtful debts.

13. During the assessment proceedings, the A.O. has noticed that assessee has claimed an amount of Rs. 1,89,16,687/- in the Profit and Loss account as provision for bad and doubtful debts. The A.O. has stated that as per provision of Section 36(1)(vii) any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debt made in the account of the assessee, therefore, the claim of the assessee was not sustainable. Accordingly, the A.O. has disallowed the aforesaid claim and added to the total income of the assessee.
14. Aggrieved, assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has deleted the addition made by the Assessing Officer after placing reliance on the decision of Hon'ble Supreme Court in the case of Vijaya Bank vs. CIT 323 ITR 166 stating that the ratio of the aforesaid case is applicable to the facts of the case of the assessee since the assessee has made provision in the Profit and Loss account and has reduced from the doubtful debt in the balance sheet. Therefore, it amount to actual write off.
15. We have heard the rival contentions and perused the material on record. In respect of ground no. 1 relating to deleting the addition of Rs. 2,98,57,398/- made on account of addition of CENVAT credit receivable and ground no. 2 pertaining to addition of Rs. 69,22,190/- made on account of disallowance u/s. 14A r.w.r. 8D the Id. Counsel has brought to our notice that in the case of the assessee itself, the ITAT Ahmedabad Bench has held that no addition can be made u/s. 145A since the assessee follows the exclusive method and similarly the second ground of appeal pertaining to disallowance u/s. 14A is also covered in favour of the assessee vide order of the ITAT Ahmedabad for the A.Y. 2009-10 in the case of the assessee itself. The Id. D.R. was fair

enough to could not controvert these facts with any material. With the assistance of the Ld. Representatives, we have gone through the material on record and noticed that in respect of ground no. 1, the Id. CIT(A) at para 4.1 of his order deleted the impugned addition holding that ITAT Ahmedabad on similar facts and same issue for A.Y. 2009-10 in the case of the assessee itself holding that no addition can be made u/s. 145A since the assessee follows the inclusive method. Similarly, following the order of the ITAT Ahmedabad on the second issue, the Id. CIT(A) at para 5 of his order has deleted the addition made u/s. 14A r.w.r. 8D of the I.T. Rule. Respectfully following the decision of the Co-ordinate Bench as elaborated in the findings of the Id. CIT(A), we do not find any merit in the appeal of the Revenue. Therefore ground no. 1 and ground no. 2 of appeal of the Revenue are dismissed. Similarly, in respect of third ground of appeal, we do not find any infirmity in the decision of Id. CIT(A) in deleting the addition after following decision of the Hon'ble Gujarat High Court in the case of Gujarat State Fertilizers & Chemical Ltd. 358 ITR 323. Therefore, we justify the decision of Id. CIT(A) holding that if the addition is deleted in regular assessment the question of any addition under section 115JB does not arise. Regarding 4th ground of appeal in respect of disallowance of Rs. 1,89,16,687/- as provision for doubtful debt, after considering the fact that the assessee has made provision in the P & L account and has also reduced from the doubtful debt in the balance sheet, therefore, the Id. CIT(A) after following the decision of Hon'ble Supreme Court in the case of CIT vs. Vijaya Bank 323 ITR 166, the Id. CIT(A) has rightly held that the assessee will be entitled to the benefit of deduction under section 36(1)(vii) as per the finding of the Hon'ble Supreme Court subject to verification by the A.O. Therefore, this ground of appeal of the Revenue also stands dismissed.

16. In the result, the appeal of the Revenue is dismissed.

ITA No. 1249/Ahd/2017 of Assessee's appeal

17. The solitary ground of appeal of the assessee is against the decision of Id. CIT(A) in confirming the disallowance of provision for expenses of Rs. 1,89,478/- on the ground that the same was not accrued.

18. The brief fact on this issue is that during the assessment proceedings, the A.O. has noticed that assessee has included an amount of Rs. 4,20,278/- under the head professional expenses as provision for expenses. The A.O. was of the view that the aforesaid amount was a provision only and not actual expenses. Therefore, asked the assessee to explain why these expenses should not be disallowed and added to the income. The assessee explained that provision of aforesaid expenses was made for the services rendered by the parties but due to some reason, the invoices were pending from the sides of the party. The A.O. has not accepted the explanation of the assessee stating that only expenses which were actually incurred, paid or payable were to be allowed as per the Act. Therefore, the provision expenses of Rs. 4,20,278/- was disallowed and added to the total income of the assessee.

19. Aggrieved, assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has partly allowed the appeal of the assessee stating that only Rs. 25,000, 44,000/- and Rs. 1,61,800/- were accrued during the relevant previous year and rest of the expenses were accrued and crystallized in the next year.

20. During the course of appellate proceedings before us, the Id. Counsel has submitted a paper book comprising of documents and information furnished before A.O. and Id. CIT(A) in the assessment and appellate proceedings. The Id. Counsel has vehemently contended that the lower authorities has not considered the contents of the material available in the paper book demonstrating that except payment of Rs. 11,000/- to Mohan Associate all other payment have been made in respect of services rendered in the F.Y. 2012-13 therefore the expenses were accrued during the relevant year. On the other hand, the Id. D.R. has supported the order of Id. CIT(A).

21. We have heard the rival contentions. With the assistance of the Ld. Representatives, we have gone through the paper book and material on record. It is noticed that assessee has furnished the detail of nature of services rendered, the period of rendering of services, invoice and date etc. On the basis of the contents of the documents placed in the paper book the Id. counsel has contended that except payment of Rs. 11,000/- made to Mohan Associates for the services rendered on 26.07.2013 to 29.07.2013 in all other cases the period of rendering of services fall in the previous year 2012-13 relevant to the assessment year under consideration. In the light of the above facts and circumstances, we observe neither A.O. nor Id. CIT(A) has given specific findings to contravene the documents/materials furnished by the assessee in support of its claim. Therefore, we consider it appropriate to restore this issue to the file of the A.O. to decide afresh after considering the material/documents placed in the paper book in support of its claim that services were rendered in the F.Y. 2012-13 and the expenses claimed were incurred in the previous year. Accordingly, this issue is restored to the file of

the A.O. as directed above to be decided a fresh after affording adequate opportunity to the assessee. Therefore, the appeal of the assessee is allowed for statistical purposes.

22. In the result, the appeal of the Revenue is dismissed and the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in Open Court on	13 - 05- 2019
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Sd/-

(MAHAVIR PRASAD)
JUDICIALMEMBER True Copy
Ahmedabad: Dated 13/05/2019

Sd/-

(AMARJIT SINGH)
ACCOUNTANT MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad