

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 4/DEL/2017
[A.Y 2012-13]

The I.T.O
Ward - 18 (3)
New Delhi

Vs.

M/s Nilgiri Financial Consultants Ltd
M -62 & 63, 1st Floor,
Connaught Place, New Delhi

PAN No: AABCD 0033 C

[Appellant]

[Respondent]

Date of Hearing : 04.07.2019
Date of Pronouncement : 04.07.2019

Assessee by : Shri Gautam Jain, Adv
Shri Lalit Mohan, CA

Revenue by : Ms. Rinku Singh, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:

With this appeal by the Revenue has challenged the correctness of the order of the ld. CIT(A) - 6, Delhi dated 20.10.2016 pertaining to A.Y 2012-13.

2. The sum and substance of the grievance of the Revenue is that the CIT(A) erred in deleting the addition of Rs. 4.07 crores made by the Assessing Officer u/s 36(1)(vii) of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short].

3. Briefly stated, the facts of the case are that during the course of scrutiny assessment proceedings, the Assessing Officer noticed that the assessee has claimed deduction of Rs. 4,07,53,938/- on account of bad debt written off. The assessee was asked to justify its claim and in its reply, the assessee stated that this amount had already been offered for tax in the earlier years and so has been reduced from the income. Reply of the assessee did not find any favour with the Assessing Officer who made the addition of Rs. 4,07,53,938/-.

4. The assessee carried the matter before the CIT(A) and explained that all the necessary evidences were furnished during the course of assessment proceedings but the Assessing Officer has not considered the documentary evidences and has made the addition. It was brought to the notice of the CIT(A) that the assessee has complied with all the conditions u/s 36(1)(vii) of the Act and therefore, the bad debt written off should be allowed as such.

5. After considering the facts and detailed submissions and drawing support from the decision of the Hon'ble Supreme Court in the case of TRF Limited 190 Taxman.com 391, the Id. CIT(A) deleted the impugned disallowance.

6. Before us, the Id. DR strongly supported the findings of the Assessing Officer.

7. Per contra, the Id. AR reiterated what has been stated before the lower authorities.

8. We have given a thoughtful consideration to the orders of the authorities below. Facts on record show that during the F.Ys 2007-08 and 2008-09, the assessee had provided services to its client Max New York Life Insurance Limited [MAX] and offered the same as income and paid taxes thereon. However, the assessee was not able to recover the whole amount from MAX and accordingly, a sum of Rs. 4,07,53,938/- was written off as bad debt. In our considered opinion, the assessee has successfully demonstrated that it has complied with the conditions of section u/s 36(1)(vii) of the Act. Hence, no interference is called for with the finding of the CIT(A).

9. The revenue has also agitated that the CIT(A) has admitted additional evidences in violation of Rule 46A of the Rules. We do not find any merit in this contention of the revenue since the evidences furnished by the assessee were transmitted to the Assessing Officer by the CIT(A) calling for remand report and the Assessing Officer, in his remand report, admitted vide letter dated 28.10.2014 that all the relevant evidences and explanations were before him. Therefore, in our considered opinion, the CIT(A) has not considered fresh/additional evidences.

10. In the result, the appeal of the revenue in ITA No. 04/DEL/2017 is dismissed.

The order is pronounced in the open court on 04.07.2019.

**Sd/-
[SUCHITRA KAMBLE]
JUDICIAL MEMBER**

**Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 04 July, 2019

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	08.07.2019
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
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Date of dispatch of the Order	