

**IN THE INCOME TAX APPELLATE TRIBUNAL
“E” Bench, Mumbai**

**Before Shri M. Balaganesh, Accountant Member
and Shri Ravish Sood, Judicial Member**

**ITA No.3332/Mum/2018
(Assessment Year: 2012-13)**

M/s Edge Steels Pvt. Ltd.
404, Ram Krishna Chambers,
5, Linking Road, Khar (West)
Mumbai – 400 052

Income Tax Officer-WD-12(2)(2)
Room No. 146(1), 1st Floor,
Vs. Aayakar Bhawan, M.K. Road,
Mumbai – 400020

PAN – AAACE3532C

(Appellant)

(Respondent)

Appellant by: Shri M. Balasubramanian, A.R

Respondent by: Shri Amit Pratap Singh, D.R

Date of Hearing: 18.09.2019

Date of Pronouncement: 20.09.2019

ORDER

PER RAVISH SOOD, JM

The present appeal filed by the assessee is directed against the order passed by the CIT(A)-20, Mumbai, dated 16.03.2018, which in turn arises from the order passed by the A.O under Sec. 143(3) of the Income Tax Act, 1961 (for short 'Act') for A.Y. 2012-13, dated 23.03.2015. The assessee has assailed the impugned order on the following grounds of appeal before us:

“1. FIRST GROUND OF APPEAL:

- 1.1 The Learned Commissioner of Income Tax (Appeals) -20 Mumbai (CIT-Appeal) has erred in confirming the order of Assessing Officer (AO) by dismissing the appeal filed, by confirming the addition of Rs.43,61,237/- without considering the fact and without understanding the accounting entries passed by the Appellant.
- 1.2. The Learned CIT- Appeal failed to consider that the additions made by the AO are only on the basis of the word 'provision' used in the head of account debited to Profit and Loss account whereas the accounting entries passed in the books of account are properly passed as required to be done for writing off bad debts.

1.3. The Learned CIT - Appeals has failed to consider and understand the documents submitted by the Appellant during the hearing proceedings and assessment proceedings.

2. SECOND GROUNDS OF APPEAL:

2.1 The Appellant craves to leave to add, amend and/or alter all or any of the above Ground of Appeal before or at any time of hearing of this Appeal.”

2. Briefly stated, the assessee company which is engaged in the business of trading of alloy steel bars and rods had e-filed its return of income for A.Y. 2012-13 on 30.09.2012, declaring its total income at Rs.50,22,980/-. Subsequently, the return of income was revised by the assessee on 08.02.2013, declaring its total income at Rs.6,61,740/-. The return of income filed by the assessee was processed as such under Sec.143(1) of the Act. Thereafter, the case of the assessee was selected for scrutiny assessment under Sec.143(2) of the Act. The A.O while framing the assessment observed that the assessee had debited an amount of Rs.43,61,237/- in its profit and loss account on account of provision for doubtful trade receivables. As the assessee had not added back the provision while computing its income, therefore, the A.O called upon it to explain as to why the said amount may not be disallowed, as it was not actually incurred. In reply, it was submitted by the assessee, that as there was no hope for the recovery of the outstanding dues from M/s Tag Engineering Pvt. Ltd., therefore, the management had decided to write off one-half of the outstanding amount of Rs.87,22,474/- during the year under consideration. Accordingly, it was submitted, that an amount of Rs.43,61,237/- was written off during the year, and was thus debited by the assessee to its profit and loss account for the year under consideration. Also, it was submitted by the assessee, that inadvertently the words “Provision for doubtful trade receivable” were used in the profit and loss account, while the fact was that the same was not a provision but actually write off of the outstanding dues from the aforementioned party. In order to drive home his aforesaid claim, it was submitted by the assessee that the balance receivable from the debtor viz. M/s Tag Engineers Pvt. Ltd. pursuant to the aforesaid writing off one-half of the outstanding debt, was thus reduced to an amount of Rs.43,61,237/-. However, the A.O was not persuaded to subscribe to the aforesaid claim of the assessee. In fact, the A.O was of the view that though as per the accounting principal, if any expenses are contemplated or likely to be accrued, the assessee is vested with the right to make a provision for the same, but at the time of computing the total income, the expenses which had not actually been incurred were required to be added back to the total income. Apart there from, the A.O also held a conviction that the claim of the

assessee that only one-half of the outstanding debt had been written off during the year also did not merit acceptance. The A.O was of the view that the debt would turn bad either wholly or, it will not. Accordingly, the amount of Rs.43,61,237/- debited by the assessee against "Provision for doubtful trade receivable", that was debited in its profit and loss account was disallowed by the A.O.

3. Aggrieved, the assessee carried the matter in appeal before the CIT(A). The CIT(A) after deliberating on the contentions advanced by the assessee observed, that the assessee had not written off the debt of Rs.43,61,237/- and had merely made a "Provision for doubtful trade receivable" . As such, the CIT(A) not find favour with the claim of the assessee and dismissed the appeal.

4. The assessee being aggrieved with the order of the CIT(A) has carried the matter in appeal before us. The Id. Authorized Representative (for short 'A.R') for the assessee submitted, that the assessee on account of an inadvertent mistake had used the word "Provision for doubtful trade receivable", while writing off one-half of the outstanding debt due from M/s Tag Engineering Pvt. Ltd. In order to fortify his aforesaid claim the Id. A.R had drawn our attention to the copy of the ledger account of M/s Tag Engineering Pvt. Ltd. appearing in its books of accounts for the year under consideration viz. A.Y. 2012-13, and also for the immediately succeeding year i.e A.Y. 2013-14. It was submitted by the Id. A.R, that the amount of the bad debt was clearly written off in the account of the aforesaid 'debtor'. It was the claim of the Id. A.R that the lower authorities loosing sight of the fact that the usage of the word "Provision for doubtful trade receivable" was merely backed by an inadvertent mistake, had however, disallowed its aforesaid claim which was duly as per the mandate of law. In order to support his entitlement towards claim of the aforesaid deduction for 'bad debt', the Id. A.R relied on the judgment of the Hon'ble Supreme Court in the case of TRF Ld. Vs. CIT (2010) 323 ITR 397 (SC).

5. Per contra, the Id. Departmental Representative (for short 'D.R') relied on the orders of the lower authorities. It was submitted by the Id. D.R, that as the assessee had not written off the bad debt, but had merely made a provision for doubtful trade receivable', therefore, the lower authorities had rightly declined its claim for deduction under Sec. 36(1)(vii) of the Act. Apart there from, it was submitted by the Id. D.R that writing off a part of the debt was also

beyond comprehension. It was thus submitted by the Id. D.R, that as the appeal filed by the assessee was devoid and bereft of any force, therefore, the same did not merit acceptance and was liable to be dismissed.

6. We have heard the authorized representatives for both the parties, perused the orders of the lower authorities and the material available on record, and also the judicial pronouncements relied upon by them. As observed by us hereinabove, it is the claim of the assessee that though it had written off one-half of the outstanding debt of Rs.43,61,237/- against the amount that was receivable from its debtor viz. M/s Tag Engineers Pvt. Ltd, however, on account of inadvertent mistake the wordings "Provision for bad debt" was used while posting the entry in the books of accounts. The Id. A.R by drawing our attention to the ledger account of the aforesaid party viz. M/s Tag Engineers Pvt. Ltd, as appearing in its books of accounts, had therein fortified its claim that the aforesaid amount of bad debt was duly written off in the account of the said party.

7. We have given a thoughtful consideration to the issue under consideration in the backdrop of the facts available on record. Admittedly, as per the judgment of the **Hon'ble Supreme Court** in the case of **T.R.F. Ltd, Vs. CIT (2010) 323 ITR 397 (SC)**, after 01.04.1989, it is not necessary for the assessee to establish that the debt, in fact, had become irrecoverable. It was observed that if the bad debt is written off as irrecoverable in the accounts of the assessee, the same would duly suffice for entitling it to claim deduction of the same under Sec.36(1)(vii) of the Act. In our considered view, there is substantial force in the claim of the Id. A.R that though the bad debt was written of irrecoverable in the accounts of the assessee, however, inadvertently the wordings 'Provision of bad debt' were wrongly used. We thus are of the considered view, that in all fairness the matter requires to be restored to the file of the A.O for verifying the aforesaid claim of the assessee. In case, the amount of Rs.43,61,237/- is written off by the assessee as irrecoverable in its accounts, then, the assessee would be entitled for claim of deduction to the said extent under Sec. 36(1)(vii) of the Act. Also, we may herein observe, that the view taken by the lower authorities, that as the assessee had written off only one-half of the outstanding debt i.e Rs.43,61,237/- out of the total outstanding of Rs.87,22,474/- of M/s Tag Engineers Pvt. Ltd., therefore, the said claim was also not to be accepted on the said count, we are afraid does not find favour with us. In fact, we are

unable to comprehend that in the absence of any embargo in the statute that a part of the outstanding debt due from a debtor cannot be written off by the assessee, we are unable to subscribe to the said view taken by the lower authorities. Accordingly, in terms of our aforesaid observations the matter is restored to the file of the A.O for fresh adjudication in terms of our aforesaid observations. The **Ground of appeal No.1** is allowed for statistical purposes.

8. The **Ground of appeal No. 2** being general is dismissed as not pressed.

9. The appeal of the assessee is allowed for statistical purpose in terms of our aforesaid observations.

Order pronounced in the open court on 20.09.2019

Sd/-

(M.Balaganesh)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक 20.09.2019

PS. Rohit

Sd/-

(Ravish Sood)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai

