

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND  
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

ITA Nos.3146/Bang/2018
Assessment Year: 2014-15

M/s. Sri Guru Sai Constructions No.21, Sri Sai Krupa 3 <sup>rd</sup> Main Road M S R Nagar Bengaluru-560 054.  <b>PAN NO : ABJFS 3888G</b>	<b>Vs.</b>	ACIT Circle 6(3)(1) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri V. Narendra Sharma, A.R.
<b>Respondent by</b>	:	Shri Priyadarshi Mishra, D.R.

Date of Hearing	:	17.08.2020
Date of Pronouncement	:	21.08.2020

**ORDER**

**PER G. Manjunatha, Accountant Member:**

This appeal filed by the assessee is directed against order of the CIT(A) Bengaluru-6 dated 15.12.2017 and it pertains to assessment year 2014-15. The assessee has raised the following grounds of appeal:-

- 1. The order passed by the learned Commissioner of Income-tax [Appeals]-6, Bengaluru, in so far as it is against the Appellant, is opposed to the law, weight of evidence, probabilities, facts and circumstances in the appellant's case.*
- 2. The appellant denies itself liable to be taxed on total income determined by the learned authorities below amounting toRs.1,02,04,007/- as against the revised income*

*being business loss reported by the appellant of Rs. 63,90,894/-, on the facts and circumstances of the case.*

*3.1 The learned Commissioner of Income-tax [Appeals] is not justified in confirming the addition made by the learned assessing officer amounting to Rs. 64,12,499/- being the disallowance made on account of bad debts claimed by the appellant, on the facts and circumstances of the case.*

*3.2 The learned commissioner of income-tax [Appeals] failed to appreciate that the evidences filed by the appellant as regard to the claim of bad debts made by it in its books of accounts since after the balance sheet date the appellant noticed that it had offered excess income and consequently the same require to be reversed and claimed the excess income declared in its books as bad debts on the facts and circumstances of the case.*

***3.3** Without prejudice though not conceding the learned Commissioner of Income-tax [Appeals] ought to have allowed the excess income offered by the appellant by reversing the income instead of claim of the appellant as bad debt in its books of account on the facts and circumstances of the case.*

***3.4** The learned authorities below failed to appreciate that the what is to be taxed is the correct income and not the income which has wrongly declared by the assessee and the authorities ought to have considered the correct income and ought to have brought to tax or assessed the income independently by allowing all the benefits and reliefs available to the assessee, on the facts and circumstances of the case.*

*3.5 The learned authorities are not justified in law in rejecting the claim of the appellant unreasonably without proper appreciation of the proofs and submissions made by the appellant which is against the principles of natural justice, on the facts and circumstances of the case.*

*4. The authorities below ought to have appreciated that consent does not confer jurisdiction and taxes are to be paid in accordance with the scheme of the act and no tax can be collected without the authority of law, on the facts **and circumstances of the** case.*

*4.1 The learned Commissioner of Income-tax [Appeals] failed to appreciate that the learned assessing officer for the purposes of computing the total assessed income of the appellant in the computation has considered the income declared by the appellant in its original return of income of Rs. 31,46,610/- instead of considering the revised total income declared by the appellant in the valid revised return of income in which revised business loss amounting to Rs. 63,90,894/- was declared by the appellant on the facts and circumstances of the case.*

*5. **In** other words the learned assessing officer ought to have started the computation of assessed income by considering the income declared by the appellant in the valid return of income filed by it instead of considering the returned income declared by the appellant in the original return of income which got substituted by the valid revised return of income filed by the appellant on the facts and circumstances of the case.*

*Without prejudice to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies himself liable to be charged to interest under section 234 A, 234 B & 234 D of the Income Tax Act under the facts and circumstances of the case. Further the levy of interest under section 234 A, 234 B & 234 D of the Act is also bad in law as the period, rate, quantum and method of calculation adopted on which interest is levied are all not discernible and are wrong on the facts of the case.*

6. *The Appellant craves leave to add, alter, substitute and delete any or all the grounds of appeal urged above.*

7. *For the above and other grounds to be urged during the hearing of the appeal, the Appellant prays that the appeal be allowed in the interest of equity and justice.*

3. The brief facts of the case are that the assessee is a partnership firm, which is engaged in the business of civil construction filed its return of income for assessment year 2014-15 on 27.11.2014 declaring total income of Rs.31,46,610/- and the same has been subsequently revised on 31.10.2015 declaring a loss of Rs.63,90,894/-. The case was selected for scrutiny and during the course of assessment proceedings, the A.O. noticed that the assessee has debited a sum of Rs.64,12,499/- under the head "bad debts" and accordingly called upon the assessee to file necessary evidences including justification for claim of bad debts. In response, the assessee submitted that it has filed revised return rectifying the mistake in offering income

on percentage completion method on advances received from customers and also accounting advances received from customers as income on the basis of confirmations from the debtors which resulted in reduction of income to the extent of Rs.64,12,499/- and the same has been debited to bad debts accounts for which necessary evidences including ledger extract of the parties have been furnished. The A.O. was not convinced with the explanation of the assessee and according to him, the assessee claims to have debited bad debts accounts, the amount of reversal of income already offered for earlier years, but failed to furnish supporting evidences to prove that the amount is in fact bad debt and accordingly opined that amount debited to bad debt accounts cannot be allowed as deduction. Accordingly, made additions of Rs.64,12,499/- to the returned income.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A). Before the CIT(A), the assessee had reiterated its arguments

made before the A.O. The assessee further submitted that amount debited under the head 'bad debts' is in fact reversal of income offered in earlier financial years on advances received from customers on the basis of percentage completion method. Further, it was subsequently noticed that amount received from customers is only an advance on which income was not accrued to the assessee. Therefore the assessee has rectified its books of accounts on the basis of confirmations received from the debtor, which resulted in debiting to bad debt account. The Ld. CIT(A) after considering the submissions of the assessee noted that although the assessee claims to have debited bad debt account on the basis of confirmations of debtor, but fact remains that as per ledger extract furnished by the assessee of the Trust it was noticed that there is a credit balance of Rs.83 lakhs. This means the accounts of the Trust was in credit as on 1<sup>st</sup> day of the financial year and before write off of bad debts and become credit of Rs.83 lakhs due to write off. This leads to the

impression that write off was a stop gap arrangement to reduce taxable income for the current assessment years. Therefore, the Ld. CIT(A) opined that there is no error in the findings recorded by the Ld. AO to disallow bad debt claim of the assessee. Aggrieved by the CIT(A)'s order the assessee is in appeal before us.

5. The Ld. A.R. for the assessee submitted that the Ld. CIT(A) has erred in confirming additions made by the A.O. towards disallowance of bad debt without appreciating the fact that the assessee has furnished necessary evidences to prove amount debited to Profit & Loss account is nothing but reversal of income offered on advances received from customers on the basis of confirmation of the parties, but not as bad debt. The Ld. A.R. further submitted that the assessee has filed revised return rectifying the mistakes in accounting income from construction contracts on the basis of percentage completion method as per which the assessee had offered income even on advances

received from customers even though income is not accrued from the project. However, while filing revised return instead of reversal of income by reducing from the sales account, the assessee has debited in to bad debt account for which necessary evidences have been filed, but the Ld. A.O. has failed to appreciate the facts and made additions. The Ld. A.R. further submitted that as regards computation of income and tax liability, although the A.O. has considered revised return of the assessee but for computation of tax liability, he has taken income as per original return, which is evident from the fact that in the computation statement, the total income has been taken at Rs.31,46,610/-, which is as per return of income filed on 27.11.2014. Therefore, he submitted that in all fairness, the issue needs to be set aside to the file of A.O. to verify the facts and to decide the issue in accordance with law.

6. The Ld. D.R. for the revenue on the other hand strongly supporting order of the CIT(A) submitted that the A.O. as well as the Ld. CIT(A) had recorded categorical finding in the light of various details filed by the assessee and also on the basis of admission of authorised representative for the assessee before the A.O. that amount debited to bad debt account is in fact income of the assessee. Therefore, there is no reason to take different view at this point of time. However, he fairly admitted that the issue may be set aside to the file of the A.O. to look into the arguments of the assessee in the light of various averments made during the course of hearing.

7. We have heard the rival submissions, perused the materials available on record and gone through the orders of the authorities below. Admittedly, the A.O. had considered revised return filed by the assessee at the time of assessment proceedings which is evident from the fact that the additions made towards

disallowance of bad debts is as per the revised return filed by the assessee. However, while computing income determined for the purpose of taxation and tax payable, he had considered income returned as per original return of income filed by the assessee. Therefore, to this extent, the arguments of the Ld. A.R. for the assessee that the issue needs to go back to the A.O. holds good. As regards the claim of bad debts, the claim of the assessee is that although the amount has been debited to bad debt account but in fact the amount represents reversal of income already recognised in books of accounts in earlier financial years on percentage completion method on advances received from customers even though the income was not accrued to the assessee from the projects. For this purpose, the assessee has filed necessary evidences to demonstrate the amount received from the debtors and amounts shown in books of accounts of the assessee are matched. Further, it is a settled position of law that mere entries in the books of accounts are not

conclusive enough to make an assessment without verifying the veracity/authenticity of the same. In this case, the claim of the assessee is that amount debited under the head 'bad debt' account is in fact reversal of income recognised in books of accounts on advances received from customers in earlier financial years on the basis of confirmation from the debtors. The assessee claims that it is a reversal of income recognised in earlier financial years, whereas the A.O. claims that the amount represents bad debts written off. If, the claim of the assessee is correct, then it needs to be allowed as deduction, because income to that extent was already offered to tax for earlier years. But, this fact is not clear from the order of the AO as well as the ld. CIT(A). Therefore, we are of the considered view that the issue needs to be re-examined by the A.O. in the light of various averments made by the assessee. Hence, we set aside the issue to the file of the A.O. and direct him to reframe the assessment de-novo in accordance with law after considering

necessary evidences filed by the assessee in support of its arguments.

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

Order pronounced in the open court on 21<sup>st</sup> Aug'20

**Sd/-**  
**(N.V. Vasudevan)**  
**Vice President**

**Sd/-**  
**(G. Manjunatha)**  
**Accountant Member**

Bangalore,  
Dated 21<sup>st</sup> Aug, 2020.  
VG/SPS

**Copy to:**

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

By order

Asst. Registrar, ITAT, Bangalore.