

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
Before Shri Duvvuru RL Reddy, Judicial Member &
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A.No.2498/Chny/2019
निर्धारण वर्ष/**Assessment Year:2013-14**

M/s. Seven Seas Distillery Pvt. Ltd.,
No. 1, V Block, 7th Floor, Kences
Enclave, Ramakrishna Nagar,
T. Nagar, Chennai 600 017.

Vs. The Deputy Commissioner of
Income Tax,
Corporate Circle 6(1),
Chennai 600 017.

[PAN:AADCS0200Q]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Anand, Advocate
प्रत्यर्थी की ओर से/Respondent by : Mrs. R. Anita, JCIT
सुनवाई की तारीख/ Date of hearing : 03.09.2020
घोषणा की तारीख /Date of Pronouncement : 08.09.2020

आदेश /O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals) 15, Chennai, in ITA No. 636/2016-17/CIT(A)-15 dated 28.06.2019 for the assessment year 2013-14.

2. M/s. Seven Seas Distillery Pvt. Ltd., the assessee, is engaged in the manufacture and sale of Indian Made Foreign Liquor [IMFL in short] of the brands belonging to M/s. United Spirits Ltd. Besides, it also obtains output on job work basis from M/s. Elite Distilleries, Kerala. While making the

assessment for the assessment year 2013-14, the Assessing Officer disallowed ₹.40,00,000/- claimed by the assessee as bad debt holding *inter alia* that it was only a loan transaction and when the assessee is not engaged into money lending, the loss on account of irrecoverable loan cannot be considered neither as a bad debt nor as a business loss. Further, the Assessing Officer disallowed ₹.3,27,354/- towards chit loss claimed by the assessee relying upon the Hon'ble Jurisdictional High Court's decision in the case of Sunil Koliyot v. ITO in T.C. (A). No. 1023 of 2007 dated 22.08.2007.

3. Aggrieved, the assessee filed an appeal before the CIT(A). The Id. CIT(A) examined the assessee's claim of bad debt or business loss and held, *inter alia*, that the assessee has not controverted any of the observations of the Assessing Officer. It was only a loan to an unrelated company, which is not in assessee's line of business. Therefore, the impugned loan transaction can never be considered as an adventure in the nature of assessee's business. The assessee could not demonstrate in terms of accounts that it has fulfilled the conditions stipulated under section 36(2) of the Act and applied the decision of the Hon'ble Bombay High Court in the case of Salem Magnesite P. Ltd. v. CIT 321 ITR 43. With regard to the assessee's chit loss claim, the Id. CIT(A) held, *inter alia*, that the assessee

could not explain how a loss incurred in a chit loan can be claimed as a revenue loss and hence dismissed the appeal.

4. On being aggrieved, the assessee preferred further appeal before the Tribunal. The case was heard through video conferencing, The Id. AR submitted the same plea taken before the lower authorities and pleaded that they have erred in disallowing the assessee's claim of bad debt. Further, the Id. AR vehemently submitted that if it is not allowed as a bad debt, it should be allowed as business loss. Per contra, the Id. DR relied on the orders of authorities below.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The assessee is engaged in manufacture and sale of IMFL. It had claimed originally as a bad debt and subsequently as a business loss of ₹.40,00,000/- claimed to have been advanced to M/s. AERO Components Pvt. Ltd., which is engaged in manufacture of components of Aircraft. The impugned transaction is not related to assessee's line of business. It is clear from the orders of lower authorities that the assessee has not established how the impugned transaction is connected to its business either directly or incidentally. Therefore, the assessee's claim either as a bad debt or as a business loss has not been established either before the lower authorities or before us. Therefore, we do not find any reason to interfere with the order of the Id.

CIT(A) and hence, the corresponding grounds of appeal of the assessee fails on this issue.

6. With regard to the disallowance of chit loss claimed by the assessee, the Id. AR has submitted that the assessee had used chit fund membership as a means to raise funds for its business from assessment years 2009-10 to 2013-14. He has submitted that the chit dividend was offered in all these years as an income and claimed chit bid loss during the assessment year 2011-12 and also this assessment year viz., 2013-14. The assessee whenever bid the prize money put such money into the Over Draft account and used it for its business purposes. The assessee is consistent in its accounting treatment of chit dividend as income and loss in chit bid as expenditure on accrual basis. Therefore, the Id. AR pleaded that the loss claimed by the assessee should be allowed as revenue expenditure and in this regard relied on the decision of the Hon'ble Jurisdictional High Court in the case of V. Rajkumar v. CIT [2014](44 taxmann.com 283)(Madras). Per contra, the Id. DR supported the orders of lower authorities.

7. We have heard the rival submissions. It is clear from the assessee's claim that the assessee has used the chit fund membership as a means to raise funds for its business. Following its consistent method of accounting, the chit dividend was offered as an income and claimed the chit bid loss whenever arose as an expenditure. The revenue has assessed and taxed

the dividend income in the earlier years. The assessee submitted these facts before the Assessing Officer and claimed the chit loss as a revenue expenditure. It is clear from the orders of lower authorities that the assessee's claim has not been repudiated. From the above facts, it is clear that the assessee has used the chit fund membership to raise funds for its use. Having assessed the chit dividend as an income from the assessment years 2009-10, the revenue cannot refuse to allow the assessee's chit loss as an expenditure whenever it had incurred such a loss. In the above facts and circumstances, we find merit in the submissions of the Id. AR and direct the Assessing Officer to allow the loss as a revenue expenditure. The corresponding grounds of the appeal of the assessee are allowed.

8. In the result, the appeal of the assessee is partly allowed.

Order pronounced on 08th September, 2020 at Chennai.

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Sd/-
(S. JAYARAMAN)
ACCOUNTANT MEMBER

Chennai, Dated, the 08.09.2020

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.