IN THE INCOME TAX APPELLATE TRIBUNAL
"A''BENCH: BANGALORE

BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBERAND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER

IT(TP)A No.1556/Bang/2014
AssessmentYear:2010-11

ACIT (LTU) Circle-I Bangalore	**Vs.**	M/s. Bosch Limited Hosur Road Adugodi Bangalore-560 030 **PAN NO : AACM9840P**
APPELLANT		**RESPONDENT**

IT(TP)A No.1582/Bang/2014
Assessment Year: 2010-11

M/s. Bosch Limited Hosur Road Adugodi Bangalore-560 030	**Vs.**	Deputy Commissioner of Income-tax (LTU) Bangalore 560 085
APPELLANT		**RESPONDENT**

Appellant by	**:**	Shri Sunil Kumar Singh, D.R.
Respondent by	**:**	Shri Percy Pardiwala, Sr. A.R.

Date of Hearing	**:**	09.09.2020
Date of Pronouncement	**:**	16.09.2020

O R D E R

PER B.R. BASKARAN. ACCOUNTANT MEMBER:

These cross appeals are directed against the order dated 28.08.2014 passed by Ld. CIT(A) (Large Tax Payers Unit, Bengaluru) and they relate to the assessment year 2010-11.

2. The revenue has filed the appeal challenging the decision rendered by Ld. CIT(A) in respective issue relating to disallowance of expenditure on purchase of application software. At the time of hearing, both the parties submitted that the tax effect involved in the appeal filed by the revenue is less than Rs.50 lakhs and hence, in view of the circular no.17/2019 dated 08-08-2019 issued by CBDT, the revenue is precluded from pursuing this appeal. In view of the above, we dismiss the appeal of the revenue in limini.

3. Grounds of appeals urged by the assessee relate to the following issues:

a) Disallowance of provision made towards interest payable to Central Excise Department.
b) Disallowance of interest expenditure payable to micro, small and medium enterprises.
c) Disallowance of part of weighted deduction claimed u/s 35(2AB) of the Act.
d) Disallowance made u/s 14A of the Act.
e) Disallowance of claim of provisions for bad and doubtful debts.

4. The assessee company is in the business of manufacture of fuel injection equipments, auto electric items, portable electric power tools, etc. The A.O. completed the assessment determining the total income of the assessee at Rs.946.15 Crores by making various additions. The appeal filed by the assessee before Ld. CIT(A) was partly allowed. Aggrieved by the decision rendered by Ld. CIT(A) on the issues cited in the preceding paragraphs, the assessee has filed this appeal before us.

5. The first issue relates to disallowance of claim of interest payable on sales tax, excise duty and customs duty. During the

year under consideration, the assessee claimed a sum of Rs.51,49,959/- as interest payable towards certain demands pertaining to sales tax of Rs.7,59,346/- and customs duty of Rs.43,90,613/-. The above said amount was debited to profit & loss account and was not paid. The A.O. proposed to invoke provisions of section 43B of the Actin order to disallow the above said amount. However, the assessee contended that the provisions of section 43B of the Act are not applicable, since "interest on taxes" is not covered u/s 43B of the Act. The A.O. did not accept the contentions of the assessee and accordingly disallowed the above said amount of Rs.51,49,959/-, apparently u/s 43B of the Act. The Ld. CIT(A) noticed that an identical issue has been considered by the Bengaluru bench of ITAT in assessee's own case and it was decided against the assessee. Accordingly, the Ld. CIT(A) confirmed the disallowance made by the A.O.

6. We heard the parties on this issue and perused the record. We notice that an identical issue has been considered by the coordinate bench in the assessee's own case in ITA Nos. 713, 714, 750 & 751/Bang/2014 relating to assessment year 2007-08 & 2008-09, vide its order dated 6.11.2017 and it was decided against the assessee. For the sake of convenience, we extract below the operative portion of the order passed by the coordinate bench on the above said issue. For the sake of convenience, we extract below the relevant observations made by the co-ordinate bench in AY 2008-09:-

> *"3. Ground No.1 is regarding disallowance of provision made towards interest payable to Customs Department. This ground is common in both the assessment years.*
>
> *4. We have heard the learned Authorised Representative as well as learned Departmental Representative and considered the relevant material on record. At the outset, we note that this Tribunal in assessee's own case for the Assessment Years 2005-06 and 2006-07 in ITA Nos.671, 672 & 665/Bang/2011 and ITA*

No.1211/Bang/2015 vide order dt.8.9.2016 has considered and decided this issue in as under :

" Ground no.6 raised by the assessee is as under;

"6. The ld., CIT(A)LTU erred in upholding the action of the AO in not allowing a deduction for the provision made towards interest payable to Central Excise Dept. Sales tax etc., dept. amounting to Rs.2,96,24,753/- although the appellant has followed mercantile system of accounting".

8. It was fairly conceded by the ld. AR of the assessee that this issue is decided against the assessee by the Tribunal in assessee's own case for the assessment year 2004-05 in IT(TP)A No.670(B)/2011 dated 20-08-2015. He submitted a copy of this Tribunal order and has drawn our attention to para-4 on page-10 of the Tribunal order. For the sake of ready reference, we reproduce para-4 of this Tribunal order as under;

> *" As regards of appeal no.8 is concerned, against the order of the CIT(A) in upholding the order of the AO in not allowing deduction for provision made towards interest payable to Central Excise Department and Sates Tax Department at Rs.4,29,67,460/- the learned counsel for the assessee submitted that this issue is covered against the assessee by the decision of this Tribunal in assessee's own case for assessment year 2000-01 and 2001-02 which is placed at pages 3 to 58 of the case laws paper book filed before us. The Tribunal, at para-6 of its order, has observed that this issue stands covered by the decision of this Bench of the Tribunal in assessee's own case for assessment years 1994-05 and 1999-00 wherein the action of the CIT(A) on disallowing interest payable to Central Excise Department has been upheld by the Tribunal. Respectfully following the same, his ground of appeal (No.8) of the assessee is rejected".*

From the above Para, what is seen that this issue is covered against the assessee by the tribunal order in assessee's own case for the assessment years 2000-01 & 2001-02 and hence, this ground of the assessee is rejected by respectfully following this Tribunal order."

Thus it is clear that this issue is covered against the assessee by the decisions of this Tribunal in assessee's own case. Accordingly following the earlier orders of this Tribunal cited supra, we do not find any error or illegality in the orders of authorities below qua this issue. This ground of assessee's appeal is dismissed."

We notice that the view taken by Ld CIT(A) is consistent with the view taken by the co-ordinate bench and hence we uphold the same.

7. The next issue relates to disallowance of interest payable to micro, small and medium enterprises by invoking section 23 of MSMED Act. During the year under consideration, the assessee

has claimed a sum of Rs.33,83,134/- as interest payable to micro, small and medium enterprises. The A.O. noticed that the provisions of section 23 of micro, small and medium enterprises Act states that notwithstanding anything contained in the Income Tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of the Act, shall not, the purpose of computation of income under the Income Tax Act, 1961 be allowed as deduction. Since the provisions of section 23 of MSMED Act has an overriding effect on the Income Tax Act, the A.O. disallowed the claim of above said interest expenditure. The Ld. CIT(A) also confirmed the same following the decision rendered by him in assessee's own case for assessment year 2008-09.

8. We heard the parties and perused the record. Before us, the Ld A.R submitted that the Income tax Act does not provide for any such disallowance. However, we notice that an identical issue has been considered by the coordinate bench in the assessee's own case and it was decided against the assessee in assessment year 2008-09 (referred supra). For the sake of convenience, we extract below the operative portion of the order above by the ITAT in assessment year 2008-09.

> *"7. We have heard the Learned Senior Counsel for the Assessee as well as learned Departmental Representative and carefully perused the provisions of MSMED Act. Section 23 of MSMED Act has specifically provided that the interest paid to the Micro, Small & Medium Enterprises on account of delayed payment is not allowable as deduction from income. For ready reference we quote Section 23 and Section 24 as under :*
>
> *" Section 23 - Interest not to be allowed as deduction from income.*
>
> *Notwithstanding anything contained in the Income tax Act, 1961 (43 of 1961), the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income Tax Act, 1961, be allowed as deduction.*
>
> *Section 24 - Overriding effect.*

> *The provisions of Sections 15 to 23 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force."*
>
> *Thus it is clear that Section 23 of MSMED Act has specifically prohibited the assessee from claiming the deduction from the income on account of interest paid to MSME. Section 24 is having overriding effect to the extent of any inconsistent provisions contained in any other law for the time being. We further note that as per the Section 15 of the MSMED Act, the liability of the buyer to make the payment to MSME within the period as agreed between the parties or in case there is a delay beyond 45 days from the date of acceptance or date of deemed acceptance the interest payable as per Section 16 shall be three times of the bank rate notified by the RBI. Thus as per Section 16 of the MSMED Act, the payment of interest on delayed payment is in the nature of penalty or it is penal interest. Therefore once the payment of interest on delayed payment to MSME is regarded as a penal in nature then the said expenditure is otherwise not allowable under Section 37 of the Income Tax Act, 1961 (in short 'the Act'). Hence, in view of the specific provisions under MSMED Act, 2006 for payment of interest to the MSME being penal in nature and having the overriding effect of Sections 15 to 23, we do not find any error or illegality in the orders of the authorities below in disallowing this claim of interest paid to the MSME."*

Following the decision rendered by the coordinate bench, we uphold the order passed by Ld. CIT(A) on this issue.

9. The next issue relates to claim of weighted deduction made by the assessee u/s 35(2AB) of the Act. During the year under consideration, the assessee claimed a sum of Rs.40.96 crores as weighted deduction u/s 35(2AB) of the Act. The assessee had claimed weighted deduction on the gross amount of expenditure incurred by it on R & D activities. However, the A.O. took the view that the deduction is allowable on the net amount of expenditure, i.e., expenditure as reduced by related income. Accordingly, the A.O. restricted the claim of the assessee u/s 35(2AB) of the Act on the net amount of expenditure, i.e., expenditure after deduction of related income. The same resulted in an addition of Rs.29.03 crores. The Ld. CIT(A) confirmed the said addition.

10. We heard the parties on this issue and perused the record. We notice that an identical issue has been considered by the coordinate bench in assessment year 2008-09 (supra) and it was decided in favour of the assessee. For the sake of convenience, we extract below the operative portion of the order passed by the coordinate bench in 2008-09.

> *"Thus it is clear that the Tribunal while deciding this issue has followed the decision of Hon'ble jurisdictional High Court in the case of DCIT Vs. Microlab (supra) as well as decision of the Hon'ble Madras High Court in the case of CIT Vs. Wheels India Pvt. Ltd. 336 ITR 513 wherein it was held that the income earned by the assessee from the R & D Centre cannot be reduced for the for the purpose of allowing the deduction under Section 35(2AB) because the said income is part of the total & 751/Bang/2014 income of the assessee. Accordingly in principle the issue was decided in favour of the assessee that the income earned by the assessee from R&D Centre cannot be reduced from the expenditure for the purpose of deduction under Section 35(2AB) of the Act. However, since the relevant details and facts were not available before the Tribunal to give a finding about the nature of the receipt whether income /revenue or reimbursement of the expenditure or grants therefore, the issue was set aside to the record of the Assessing Officer for limited purpose of verification of the said fact. The learned Departmental Representative has raised a very serious objection that neither the Assessing Officer nor this Tribunal has jurisdiction to tinker with the amount of expenditure as given in the approval certificate by the DSIR. In support of his contention he has relied upon a series of decisions however, we find that the decisions relied upon by the ld. DR on the issues that once the DSIR approved the R&D Centre then the Assessing Officer cannot deny the claim of the assessee on the ground that the assessee is not eligible for weighted deduction under Section 35(2AB) of the Act. Further in the case in hand there is no dispute regarding the gross total expenditure and the receipts therefore, there is no question of tinkering with the details given by the DSIR in the approval order. The only question is the computation of quantum of weighted deduction under Section 35(2AB) and on the specific aspect of receipts of the R&D Centre are required to be reduced or not from the expenditure for this purpose. There is no dispute about the nature of the receipts as it is manifest from the details given in the certificate issued by the DSIR and also not disputed by the & 751/Bang/2014 Assessing Officer that these receipts are in the nature of fees and service charges and part of the total income of the assessee. Therefore in view of the binding precedent of the Hon'ble jurisdictional High Court in the case of CIT Vs. Microlabs Ltd. (supra) as well as the decision of the co- ordinate Bench of this Tribunal in assessee's own case for the Assessment Years 2005-06 & 2006-07, we hold that the receipts of the R&D Centre which is in the nature of revenue/income being part of the total income of the assessee cannot be*

> *reduced from the gross expenditure of in-house R&D Centre for the purpose of weighted deduction under Section 35(2AB) of the Act. Hence, we allow the claim of the assessee and set aside the orders of the authorities below qua this issue."*

Following the order passed by the coordinate bench in 2008-09, we set aside the order passed by Ld CIT(A) on this issue and direct the A.O. to allow the deduction u/s 35(2AB) of the Act on the gross amount of expenditure.

11. The next issue relates to disallowance made u/s 14A of the Act. During the year under consideration, the assessee had received exempt income of Rs.38.81 crores. The assessee had disallowed a sum of Rs.10.08 lakhs u/s 14A of the Act. The A.O. did not accept the workings furnished by the assessee and accordingly, computed disallowance as per rule 8D of the I.T. Rules. The same worked out to Rs.3.35 crores. After giving set off of Rs. 10 lakhs made by the assessee voluntarily, the A.O. added a sum of Rs.3.25 crores to the total income of the assessee u/s 14A of the Act. The Ld. CIT(A) also confirmed the same.

12. We heard the parties on this issue and perused the record. The Ld. A.R. invited our attention to the copy of balance sheet placed at page 278 of the paper book and submitted that the own funds available with the assessee as on 31.3.2010 is more than the value of investment and hence it should be presumed that the investments have been made out of own funds. In that case, no disallowance out of interest expenditure in terms of rule 8D(2)(ii) of the I.T. Rules is called for. In support of this proposition, the Ld. A.R. placed his reliance on the decision rendered by Hon'ble Supreme Court in the case of CIT Vs. Reliance Industries Ltd. (2019) 102 Taxmann.com 52. With regard to the disallowance made out of administrative expenses under rule 8D(2)(iii) of the I.T. Rules, the Ld. A.R. submitted that most of the investments made by

the assessee did not yield dividend income and hence, as per the decision rendered by Special bench of ITAT in the case of Vireet Investments P Ltd (165 ITD 27), the investments which did not yield exempt income should not be considered for computing average value of investments. The Ld. A.R. further submitted that the assessee gave scientific method of working for arriving at the expenditure relating to exempt income and the same was not examined properly by the tax authorities. He further submitted that this issue was restored to the file of the A.O. by the coordinate bench in assessment year 2008-09. He submitted that the coordinate bench has also restored the issue of examining the availability of own funds to the file of the A.O. in assessment year 2008-09, since the relevant details were not available before them at the time of hearing. However, during the year under consideration, the assessee has furnished all the relevant details in the paper book and the attention of the bench was invited to the Balance sheet of the assessee and he has also demonstrated that the own funds available with the assessee is more than the value of investments. Accordingly, he prayed that a finding may be given on this issue by the Tribunal itself.

13. The ld. D.R. submitted that the issue may be restored to the file of the A.O., following the decision rendered by coordinate bench in the assessment year 2008-09.

14. We heard the parties on this issue and perused the record. From the balance sheet placed at page 278 of the paper book, we notice that the own funds available with the assessee as on 1.4.2009 and 31.3.2010 are Rs.3075.67 crores and Rs.3601.21 crores respectively. The value of investments as on 1.4.2009 and 31.3.2010 are Rs.991.46 crores and Rs.1676.90 crores respectively. Admittedly, the own funds available with the assessee is more than

the value of investments as at the beginning and end of the financial year. Accordingly, the presumption is that the assessee has used his own funds for making the investments, in which case no disallowance out of interest expenditure as per rule 8D(2)(ii) of the I.T. Rules is called for. In this regard, we derive support from the decision rendered by Hon'ble Supreme Court in the case of Reliance Industries Ltd. (supra). Accordingly, we direct the A.O. to delete the interest disallowance made under rule 8D(2)(ii) of the I.T. Rules.

15. With regard to the disallowance made out of administrative expenses, under rule 8D(2)(iii) of the I.T Rules, the Ld. A.R's main contention is that many of the investments have not yielded dividend income and hence, as per the principle laid down by special bench of ITAT in the case of Vireet Investments P Ltd (supra), the investments, which did not yield exempt income should not be considered for computing the average value of investments while working out disallowance under rule 8D of the I.T. Rules. The Ld A.R submitted that the assessee agrees to the computation of disallowance u/r 8D(2)(iii) of I T Rules by following the principle laid down in the case of Vireet Investments P Ltd (supra). Since the factual aspects relating to this issue require examination, we restore the issue of making disallowance under rule 8D(2)(iii) of the I.T. Rules to the file of the A.O. by following the principle laid down in the case of Vireet Investments P Ltd (supra). However, if the disallowance worked out by the A.O. turns out to be lower than the amount of disallowance made by the assessee in the return of income, then the disallowance made by the assessee should be restored.

16. The last issue relates to disallowance of provision for bad and doubtful debt u/s 36(1)(vii) of the Act. The A.O. noticed that the

assessee has debited a sum of Rs.12.04 crores in the profit & loss account towards "Provision for doubtful debts" and claimed the same as deduction. The AO noticed that the mere provision created for doubtful debts is not allowable under the Income Tax Act and only the bad debts actually written off in the books of account is allowable as deduction u/s 36(1)(vii) of the Act. When questioned, the assessee placed its reliance on the decision rendered by Hon'ble Supreme Court in the case of Vijaya Bank Vs. CIT (323 ITR 166) and submitted that the provision for bad and doubtful debts has been reduced from the amount of Sundry debtors in the Balance sheet and the same is sufficient compliance mentioned u/s 36(1)(vii) of the Act regarding writing off of debts as bad. It is pertinent to note that the provisions of section 36(1)(vii) of the Act, the amount of bad debt or part thereof which is written off as irrecoverable is allowable as deduction. The A.O. took the view that the bad debt should have been actually written off in the books of accounts as irrecoverable and mere reduction of provisions for doubtful debts from the amount of Sundry debtors balance in the Balance Sheet does not amount to compliance to the condition prescribed u/s 36(1)(vii) of the Act. The A.O. further took the view that the decision rendered by the Hon'ble Supreme Court in the case of Vijaya Bank pertains to assessment year 1993-94 and 1995-96 and hence the same cannot be followed. The assessee had also placed its reliance on the decision rendered by Hon'ble Karnataka High Court in the case of Sandvik Asia Limited (ITA No.563/2006). The A.O. did not follow the same by stating that the Hon'ble Karnataka High Court has followed the decision rendered by Hon'ble Supreme Court in the case of Vijaya Bank. Accordingly, he disallowed the claim of provision for doubtful debts and the Ld. CIT(A) also confirmed the same.

17. We heard the parties on this issue and perused the record. The Ld. A.R. strongly placed his reliance on the decision rende4red by Hon'ble Supreme Court in the case of Vijaya Bank (supra) and also by Hon'ble Karnataka High Court in the case of Sandvik Asia Limited (supra). He invited our attention to the copy of balance sheet, more particularly schedule of sundry debtors placed at page 286 of the paper book and submitted that Provision for doubtful debts have been reduced from the amount of sundry debtors. Accordingly, he submitted that, as per the decision rendered by the Hon'ble Supreme Court in the case of Vijaya Bank (supra), this disclosure amounts to write off as mentioned u/s 36(1)(vii) of the Act. Accordingly, he prayed for vacation of this disallowance.

18. We heard Ld. D.R. on this issue and perused the record. We notice that the Hon'ble Karnataka High Court has considered an identical issue in the case of Sandvik Asia Limited and it has been decided in favour of the assessee by following the decision rendered by Hon'ble Supreme Court in the case of Vijaya Bank. For the sake of convenience, we extract the order passed by the Hon'ble Karnataka High Court in the case of Sandvik Asia Limited.

> *"2. The assessee claimed deduction in respect of doubtful debts for the assessment years 1996-97 and 1998-99. The assessee had adopted in the P & L account provision for doubtful debts of Rs. 16.94.455/- for the assessment year 1996-97 and Rs. 8,32,905/- for the assessment year 1998-99. Since the methodology followed by the assessee to write off was not in accordance with the* ***provisions of Section 36(1)(vii) of the Income Tax Act, 1961,*** *it's claim was not allowed. Aggrieved by the said order, the assessee preferred appeal to the Commissioner of Income Tax (Appeals). The appellate Commissioner held the writing off does not necessarily require credit to be given to each debtor's account. If bad debts are debited in profit and loss account and credited to another account named as "bad debt reserve account, bad debt suspense account etc," the requirement of writing off is met even though individual debtor's accounts are not credited. Therefore, he held, the Assessing Officer was not justified in disallowing the provision for doubtful debts in each assessment year.*

3. Aggrieved by the said order, the Revenue preferred appeal to the Tribunal, which has confirmed the said order. However, the Tribunal held that it is not made mandatory that the write off can be only by squaring-up the account of debtors, The law is that the write off should be made in the accounts. In this case the assessee has debited the profit and loss account and order entry is by way of reduction of such sum from the total debtors account. Thus, the provision of Section 36(1)(vii) of the Act is duly complied with and therefore the appellate Commissioner was justified in allowing the claim of bad debt. Aggrieved by the said order the Revenue has preferred these appeals.

4. The Apex Court in the case of ***VIJAYA BANK v. COMMISSIONER OF INCOME TAX*** *reported in (****2010) 323 ITR 166 (SC) Volume 323*** *has held as under:-*

"6. The first question is no more res integra. Recently, a Division Bench of this Court in the case of Southern Technologies Limited v. Joint Commissioner Of Income Tax, Coimbatore reported in (2010) 320 ITR 577, (in which one of us S.H Kapadia J. was a party) had an occasion to deal with the first question and it has been answered, accordingly, in favour of the assessee, vide paragraph 25, which reads as under (page 604

"Prior to April 1, 2989, the law, as it then stood, took the view that even in cases in which the asssssee(s) makes only a provision in its accounts for bad debts and interest thereon and even though the amount is not actually written off by debiting the profit and loss account of the assessee and crediting the amount to the account of the debtor, the assessee was still entitled to deduction under section 36(1)(vii), (See ***CIT v. Jwala Prasad Tiwarl*** *(1953) 24 ITR 537 (Bom) and* ***Vithaladas H. DhanjibhaiBardanwaia v. CIT*** *(1981) 130 ITR 95 (Guj), Such state of law prevailed up to and including the assessment year 1988-1989, However, by insertion (with effect from April 1, 1989) of a new Explanation in Section 36(2)(vii), it has been clarified that any bad debt written off as irrecoverable in the account of the assessee will not include any provision for bad and doubtful debt made in the accounts of the assessee. The said amendment indicates that before April 1, 1989, even a provision could be treated as a write off. However, after April 1, 1989, a distinct dichotomy is brought in by way of the said Explanation to Section 36(1)(vii). Consequently, after April 1, 1989, a mere provision for Bangalore bad debt would not be entitled to dichotomy, one must understand "how to write off". If an assessee debits an amount of doubtful debt to the profit and loss account and credits the asset account like sundry debtor's account, it would constitute a write off of an actual debt. However, if an assessee debits "provision for doubtful debt" to the profit and loss account and makes a corresponding credit to the "current liabilities and provisions" on the liabilities side of the balance sheet, then it would constitute a provision for doubtful debt. In the latter case, the assessee would not be entitled to deduction after April 1, 1989".*

"8. Coming to the second question, we may reiterate that it is not in dispute that ***Section 36(1)(vii) of the 1961 Act*** *applies both to banking and*

non-banking businesses. The manner in which the write off is to be carried out has been explained hereinabove. It is important to note that the assessee Bank has not only been debiting the profit and loss account to the extent of the impugned bad debt, it is simultaneously reducing the amount of loons and advances or the debtors at the year-end, as stated hereinabove. In other words, the amount of loans and advances or the debtors at the year end in the balance sheet is shown as net of the provisions for the impugned debt. However, what is being insisted upon by the Assessing Officer is that mere reduction of the amount of loans and advances or the debtors at the year end would not suffice and in the interest of transparency, it would be desirable for the assessee bank to close each and every individual account of loans and advances or debtors as a pre condition for claming deduction under ***Section 36(1)(vii) of the 1961 Act****. This view has been taken by the Assessing Officer because the Assessing Officer apprehended that the assessee-Bank might be taking the benefit of deduction under* ***section 36(1)(vii) of the 1961 Act,*** *twice over. (See order of the Commissioner of Income-Tax Appeals) at pages 66, 67 and 72 of the paper book, which refers to the apprehensions of the Assessing Officer). In this context, it may be noted that there is no finding of the Assessing Officer that the assesses had unauthorisedly claimed the benefit of deduction under section 36(1)(vii) twice over. The order of the Assessing Officer is based on an apprehension that, if the assessee fails to close each and every individual account of its debtor, it may result in the assessee claiming deduction twice over. In this case, we are concerned with the interpretation of* ***Section 36(1)(vii) of the 1961 Act****. We cannot decide the matter on the basis of apprehension/desirability. It is always open to the Assessing Officer to call for details of individual debtor's account if the Assessing Officer has reasonable grounds to believe that the assessee has claimed deduction, twice over. In fact, that exercise has been undertaken in subsequent years. There is also a flip side to the argument of the Department. The assessee has instituted recovery suits in courts against its debtors. If individual accounts are to be closed, then the debtor/defendant in each of those suits would rely upon the bank statement and contend that on amount is due and payable in which event the suit would be dismissed."*

In the light of the judgment of Apex Court, there is no merit in this appeal.

5. The appeals are dismissed answering the substantial question of law in favour of the assessee and against the Revenue."

We have noticed earlier that the assessee has reduced the amount of provision for doubtful debts from the amount of sundry debtors in the balance sheet. Accordingly, respectfully following the decision rendered by Hon'ble Karnataka High Court, we direct the A.O. to delete the impugned disallowance.

19. In the result, the appeal filed by the assessee is treated as partly allowed for statistical purposes.

Pronounced in the open Court on 16-09-2020

Sd/-	**Sd/-**
(George George K.)	**(B.R. Baskaran)**
Judicial Member	**Accountant Member**

Bangalore,
Dated 16th Sept, 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.