

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

**SHRI N V VASUDEVAN, VICE PRESIDENT AND  
BEFORE SHRI ARUN KUMAR GARODIA, AM**

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<b>ITA No. 420 to 422/B/2014 &amp; 1485/Bang/2016</b>
<b>Assessment Years : 2007 – 08 to 2010 – 11</b>

M/s Desai & Company, PB Road, Vidyanagar, Hubli <b>PAN: AAAFD9759P</b>	vs.	JCIT Range - 1, Hubli
APPELLANT		RESPONDENT

Assessee by	:	Shri V. Chandrasekar, Advocate
Revenue by	:	Shri S. Tamil Selvam, JCIT DR
Date of Hearing	:	14.01.2020
Date of Pronouncement	:	12.02.2020

**ORDER**

**PER SHRI A.K. GARODIA, AM:**

These four appeals are filed by the assessee and these are directed against four separate orders of learned CIT (A) Hubali out of which three orders are dated 30.12.2013 for A. Ys. 2007 – 08 to 2009 – 10 and remaining one order is dated 31.03.2016 for A. Y. 2010 – 11. These appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. In course of hearing, learned AR of the assessee submitted that in A. Ys. 2007 – 08 to 2009 – 10, the assessee has raised technical aspect i.e. validity of reopening as per Ground Nos. 2 to 5 but he does not want to press these grounds in these three years and accordingly, these grounds are rejected as not pressed. He further submitted that the issues on merit are identical in these four years and since, the order of CIT (A) in A. Y. 2010 – 11 is a later order passed on 31.03.2016, this year may be taken as the lead year and by considering the facts of this year and finding of CIT (A) in this year, these four appeals can be decided. Learned DR of the revenue

also agreed to this and hence, we decide these four appeals by considering the facts and decision of CIT (A) in A. Y. 2010 – 11.

3. Learned AR of the assessee submitted that one of the issues raised in all these four years is about disallowance of Provision for Extended Warranty. He submitted that this issue is covered in favour of the assessee by the tribunal order rendered in assessee's own case for A. Y. 2006 – 07 in ITA No.597/B/2011 dated 05.10.2012. He submitted a copy of this tribunal order and drawn our attention to para 12 & 13 of this tribunal order and pointed out that in that year, the tribunal followed the judgment of Hon'ble apex court rendered in the case of Rotork Controls India Ltd. Vs. CIT, 314 ITR 62 and decided the issue in favour of the assessee after giving a categorical finding that the assessee satisfies both the matching principle as well as the conditions subject to which the provision can be recognized as a liability. He submitted that the facts are identical in the present four years and the assessee is following the same accounting method. Learned DR of the revenue supported the order of CIT (A) but he could not point out any difference in facts in the present four years and A. Y. 2006 – 07.

4. We have considered the rival submissions. We find that this issue is squarely covered in favour of the assessee by the tribunal in order in assessee's own case for A. Y. 2006 – 07 and Learned DR of the revenue could not point out any difference in facts in the present four years and A. Y. 2006 – 07. Hence respectfully following this tribunal order, this issue is decided in favour of the assessee.

5. The next issue in dispute is about allowability of Discount. In A. Y. 2010 – 11, learned CIT (A) had confirmed the disallowance to the extent of 25%. Learned AR of the assessee submitted that in A. Y. 2010 – 11, learned CIT (A) obtained remand report from the AO and in the remand report, the AO has reported that the assessee submitted 39 affidavits and confirmation letters and the AO issued summons u/s 131 to 19 Tractor customers selected on random basis. He has reported that all of them appeared and their statements were recorded under oath and they produced valid photo identity cards Aadhar etc. and they confirmed that they received discount. He submitted that learned CIT (A) was also satisfied and he deleted 75% disallowance but confirmed 25% of this disallowance

by observing that there may be probable omission and commission and inflation. He submitted that when affidavit and confirmations of all 39 customers is made available and 19 out of them were examined on random selection, this allegation of omission and commission and inflation is without any basis and therefore, entire disallowance should be deleted. Learned DR of the revenue supported the order of CIT (A).

6. We have considered the rival submissions. We find that confirming of 25% of the disallowance in A. Y. 2010 – 11 is without any basis. Hence, we feel it proper to delete the entire disallowance in all these four years because no difference in facts is pointed out by the learned DR of the revenue in A. Y. 2010 – 11 and preceding three years. We order accordingly.

7. The next issue in dispute is about disallowance of the assessee's claim for write off of bad debts. On this issue, learned AR of the assessee drawn our attention to page 17 of the order of CIT (A) for A. Y. 2010 – 11 and pointed out that on this page, it is noted by CIT (A) that the assessee has filed before him ledger extracts of all the customers whose outstanding balance has been written off as bad debts in A. Y. 2010 – 11. He submitted that therefore, this is admitted position of fact that bad debts were in fact written off by the assessee. He placed reliance on the judgment of Hon'ble apex court rendered in the case of TRF Ltd. Vs. CIT as reported in 241 CTR 45 and submitted that this issue is squarely covered in favour of the assessee by this judgment. Learned DR of the revenue supported the order of CIT (A).

8. We have considered the rival submissions. We find that as per the finding of CIT (A) on page 17 of his order for A. Y. 2010 – 11, there is no dispute that the bad debts in question were actually written off by the assessee and hence, by respectfully following this judgment of Hon'ble apex court rendered in the case of TRF Ltd. Vs. CIT (Supra), we delete the entire disallowance of bad debts written off in all these four years because no difference in facts is pointed out by the learned DR of the revenue in A. Y. 2010 – 11 and preceding three years.

9. In the result, one appeal of the assessee for A. Y. 2010 – 11 is allowed and remaining three appeals of the assessee are partly allowed because in these three years, the grounds about validity of reopening were rejected as not pressed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-  
(N. V. VASUDEVAN)  
Vice President

Sd/-  
(ARUN KUMAR GARODIA)  
Accountant Member

Bangalore,

Dated, the 12<sup>th</sup> February, 2020.

/MS/ <sup>AKG</sup>

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|---------------|------------------------|
| 1. Appellant  | 4. CIT (A)             |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT        | 6. Guard file          |

By order

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Bangalore.