

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

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.1430/Bang/2017
Assessment Year : 2013-14

M/s. Rukmani Finance Pvt. Ltd. T. Srinivasa & Co. Chartered Accountants B-1, Manish Tower #84, J.C. Road Bengaluru 560 002  <b>PAN NO :AAACR9552P</b>	<b>Vs.</b>	Deputy Commissioner of Income-tax Circle-5(1)(1) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri T. Srinivasa, A.R.
<b>Respondent by</b>	:	Shri Pradeep Kumar, D.R.

<b>Date of Hearing</b>	:	22.03.2021
<b>Date of Pronouncement</b>	:	22.03.2021

**O R D E R**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 30.3.2017 passed by Ld. CIT(A)-5, Bengaluru and it relates to the assessment year 2013-14. At the time of hearing, the assessee did not press ground Nos.1 & 2. The remaining grounds relate to disallowance of claim of bad debts written off amounting to Rs.8.39 crores.

2. The assessee is engaged in the business of providing finance and investment services. The return of income filed by the assessee

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for assessment year 2013-14 was taken up for scrutiny. The A.O. noticed that the assessee has claimed bad debts written off amounting to Rs.8.39 crores. In response to the query raised with regard to the above said claim, the assessee submitted that the above said amount was given to a company named M/s. Marmagoa Steel Limited ("MSL"). It was submitted that the assessee was a co-promoter of above said company under a BIFR approved rehabilitation programme. Since the assessee held majority stake in MSL, the assessee had also extended support in the form of unsecured loans. It was submitted that assessee had received interest from MSL up to assessment year 2013-14. However, the net worth of the MSL got eroded and production was stopped in June 2013. Accordingly, it was submitted that there was no visible sign of revival of the operation of MSL. Hence, the assessee sold its shares held in MSL and simultaneously wrote off the loan given to MSL as irrecoverable.

3. The A.O. noticed that the shares sold by the assessee was purchased by a person named Shri Anil Kumar Mittal, who is the common Director in the assessee company and MSL. Further, the shares have been sold at a premium. The A.O. also noticed that MSL had assets worth Rs.51 crores in the form of land and buildings are tangible assets as at 31.3.2015. He also noticed that MSL has written off the liability payable to the assessee company as 'not payable', only in the financial year ending 31.3.2015. Under these set of facts, the A.O. took the view that the credentials of writing off of loan were not supported by the facts and circumstances of the case. Accordingly, he held that writing off of advance was not allowable during the year under consideration. The AO also noticed that the assessee has not registered with RBI for carrying on NBFC activities. Accordingly, the A.O. took the

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view that loan given to MSL does not fall under money lending activity, but is only an investment activity. Accordingly, the AO disallowed the claim of bad debts and the same was confirmed by Ld. CIT(A).

4. We heard the parties on this issue and perused the record. The Ld. A.R. submitted that the operations of M/s. MSL were stopped in June, 2013. The Ld. A.R. submitted that factum of stoppage of production for MSL came to the knowledge of the assessee before finalization of the accounts for the year ending 31.3.2013. Hence, the assessee chose to write off the amount receivable from MSL. He further submitted that the assessee is engaged in the business of giving finance and investment services. The assessee has given the loan to MSL in the course of its business and hence the writing off of the same is allowable u/s 36(1)(vii) of the Act.

5. It was pointed out to Ld A.R that the Accounting standard-4 issued by ICAI relating to Contingencies and events occurring after the Balance sheet date, would apply only to liabilities or commitments and obligations outstanding as on the Balance Sheet date, but the subsequent events has imposed a liability upon the assessee. In the instant case, it is not a case of a liability to the assessee, but it was a case of writing off of an asset. Hence the assessee could not have written off the amount in AY 2013-14, since the MSL has paid interest to the assessee upto the assessment year 2013-14 and further the production was stopped by MSL only in the subsequent year. It was also pointed out that MSL has written back the loan received by it from the assessee only in the year relevant to the assessment year 2015-16. Both the

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assessee being part of same group, both could not have taken different stand in respect of the very same transaction.

6. The Ld A.R submitted that the assessee has provided for known expenditure in the financial year 2012-13 relevant to AY 2013-14, since the bleak prospects of the loan given to MSL came to the knowledge of the assessee before finalization of accounts of the year ending on 31.3.2013. However, in order to maintain uniformity, the Ld A.R submitted that the assessee is agreeing for disallowance of bad debts claim in this year and accordingly a direction may be issued by the Tribunal to the A.O. to allow the claim of bad debts in assessment year 2015-16.

7. The Ld. D.R. supported the order passed by the tax authorities.

8. Having considered the facts discussed above, we are of the view that the disallowance of bad debts claimed by the assessee in assessment year 2013-14 was justified as the assessee could not establish that there existed business compulsion to write off the loan amount given to MSL as on 31.3.2013. At the same time, it is an admitted fact that the loan given to MSL has become bad. It is also corroborated by the fact that MSL has also written off the amount payable to the assessee in A.Y. 2015-16. In view of the above, we are also of the view that the bad debts claim of the assessee should be examined only in assessment year 2015-16.

9. Since we have given a specific finding that the above said claim is required to be examined in assessment year 2015-16, the assessee may move appropriate petition before the A.O. for making its claim for bad debts in assessment year 2015-16 before the A.O.

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In view of the above, we are of the view that it would not be appropriate to adjudicate the question as to whether the amount of Rs.8.39 crores given to MSL by the assessee is loan or investment, which may be examined by the AO afresh while disposing the petition of the assessee.

10. In view of the foregoing discussions, we confirm the order passed by Ld. CIT(A) on this issue subject to the direction given to the A.O. in the preceding paragraph.

11. In the result, the appeal filed by the assessee is treated as partly allowed.

Order pronounced in the open court on 22<sup>nd</sup> Mar, 2021

**Sd/-**  
**(Beena Pillai)**  
**Judicial Member**

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

Bangalore,  
Dated 22<sup>nd</sup> Mar, 2021.  
VG/SPS

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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.**