

IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE
BEFORE SHRI. B.R BASKARAN, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No.325/Bang/2020
Assessment Year : 2014-15

The Dy. Commissioner of Income-Tax, Circle-3(1)(2), Bengaluru.	Vs.	M/s Gemini Graphics Ltd., No.07, Matthru Krupa 1 st Floor, Temple Road, Malleswaram, Bengaluru-560 066. PAN - AAACG 5250F
APPELLANT		RESPONDENT

ITA No.86/Bang/2020
Assessment Year : 2014-15

M/s Gemini Graphics Ltd., No.07, Matthru Krupa 1 st Floor, Temple Road, Malleswaram, Bengaluru-560 066. PAN - AAACG 5250F	Vs.	The Asst. Commissioner of Income-Tax, Circle-3(1)(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri H.V Gowtham, C.A
Revenue by	:	Smt. K Haritha, Add. CIT(DR)

Date of Hearing	:	06-04-202
Date of Pronouncement	:	23-06-2021

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present cross appeals have been filed by assessee as well as revenue against order dated 02/12/2019 passed by the Ld.CIT (A)-13, Bangalore for assessment year 2013-14 on following grounds of appeal:

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“1. The learned Commissioner of Income Tax(A) erred in upholding the order passed by the learned Assessing Officer, disallowing the amount of Bad debts written off in the books of account.

1.1 The learned Commissioner of Income Tax(A) ought to have considered the fact that the appellant had followed all conditions laid down under subsection 2 of section-36.

1.2 The learned Commissioner of Income Tax (A) erred in upholding the order passed by the learned Assessing Officer stating that the account of the concerned debtors has not been credited with the amounts written off.

1.3 The learned Commissioner of Income Tax (A) ought to have considered the submission of Appellant that, once the amount of bad debts is written off in the books of account by debiting bad debts account, the credit automatically would have been taken under the concerned debtors account.

1.4 The Appellant submits that all details relating to the year of accounting the income and reason for considering the amount as bad debt have been furnished and therefore the Appellant claims that the bad debts shall be allowed.

2. The learned Commissioner of Income tax (A) erred in upholding the order passed by the learned Assessing Officer for not allowing the expenses incurred towards pooja amounting to Rs.2,34,560/-.

2.1 The learned Commissioner of Income Tax (A) ought to have considered submission of the Appellant that there are more than 500 employees in the company and distribution of sweets during Dasara and weekly pooja, could only be considered as Staff Welfare and the same should have been allowed.

3 For the above and any other Grounds, that may be advanced at the time of hearing, the Appellant prays that, disallowance be deleted.”

ITA No. 325/B/2020

- “1. The order of the Learned CIT(A) is opposed to law and facts of the case.*
- 2. The Learned CIT(A) was wrong to state that new products manufactures by the assessee in the R & D unit is an "Scientific Reasearch" while the products made by the assessee's company is not available in India and being imported by various companies.*
- 3. The Learned CIT(A) was wrong in mentioning that the activities carried out by the assessee by investing on new plants or machinery to bring out new type of products is a scientific research. This is nothing but an investment in R & D equipment to diverse the production towards more profit.*
- 4. The appellant craves leave to add, alter, amend and /or delete any of the grounds mentioned above.”*

Brief facts of the case are as under:

2. The assessee is a company carrying on business of printing lottery tickets, security printers and manufacture of papers. It filed its return of income for year under consideration on 30/09/2015 declaring total income of Rs.6,82,32,070/-. The case was selected for scrutiny and notice under section 143(2) along with notice under section 142(1) was issued to assessee. In response to statutory notices, representative of assessee appeared before Ld.AO and filed requisite details as called for.

3. The Ld.AO noted that assessee claimed deduction under section 35(1)(iv) of the act to the tune of Rs.2,62,53,421/-. Ld.AO called upon assessee to show cause and to substantiate the claim made under section 35(1)(iv) of the Act along with documentary

evidences. Assessee had submitted before the Ld.AO that it had carried the research activity from assessment year 2012-13 and assessee had claimed capital expenditure on R&D since then. The Ld.AO rejected the submissions of assessee for the reason that assessee did not furnish any details about the researchers or skilled manpower employed for R&D work. Ld.AO also rejected the claim for the reason that no expenditure on manpower was quantified for or R&D work.

4. The Ld.AO from the schedules annexed forming part of financial statements of assessee observed that assessee has claimed bad debts amounting to Rs.24,00,938/-. During the course of assessment proceedings assessee was asked to substantiate the bad debts claimed. It was submitted by assessee that it has been selling printed matters to various universities and recovery of amount due from some of them have become bad and therefore as per the provisions of section 36(vii) of the Act, the bad debts is allowable. The Ld.AO rejected the submissions of assessee on the basis that assessee had not produced any evidence to substantiate the submission made like books of account showing debts written off and simultaneously credit being made in tatters account etc.

5. The Ld.AO also noted from the schedules that assessee had debited to P&L account sum of Rs.2,34,560/- towards Pooja expenses. Ld.AO in support of this claim called upon assessee to furnish documentary/supporting evidences/vouchers to justify the allowability of such expenses. The Ld.AO disallowed the claim for the reason that assessee failed to justify the business expediency in current in incurring such expenditure.

6. Aggrieved by the additions made by the Ld.AO, assessee preferred appeal before the Ld.CIT(A).

7. Before the Ld.CIT(A), assessee produced samples of special papers brought out of the R&D Department, that has been reproduced in para 4.2 of the impugned order. The Ld.CIT(A) observed that assessee for assessment year 2013-14 had challenged similar disallowance before coordinate bench of this *Tribunal* and this tribunal wide order dated 26/12/2017 in ITA No.167/B/2017, set aside the order of the Ld.AO with a direction to review the issue again and pass the order on merits. It has been observed by the Ld.CIT(A) that the Ld.AO in the order giving effect to the order passed by this *Tribunal* had allowed the claim of assessee under section 35(1)(iv) of the Act. The Ld.CIT(A) accordingly deleted the disallowance made by the Ld.AO.

8. In respect of disallowance of bad debts, the Ld.CIT(A) upheld the observations of Ld.AO as assessee had not produced any evidence such as books of account showing debts written off and credit being made simultaneously debtors account in terms of explanation to section 36(1)(vii) of the Act.

9. In respect of Pooja expenses, the Ld.CIT(A) upheld the expenses by observing that assessee could not produce any documentary evidences.

10. Aggrieved by the order of Ld.CIT(A) both assessee as well as revenue are in appeal before us now.

We shall 1st take up the appeal filed by revenue:

11. Revenue has challenged only one issue before this tribunal wherein the Ld.CIT(A) deleted the disallowance made under section 35 (iv) of the Act.

12. The Ld. ar thus submitted that the issue stands covered in favour of assessee by virtue of the order giving effect passed by the Ld.AO dated 14/12/2018 for assessment year 2013-14. We note that this tribunal for assessment year 2013-14 had remanded this issue back to Ld.AO for the similar reason that assessee had failed to produce details regarding the nature of scientific research activity carried on by it during the relevant period. Ld.CIT (A) based upon the order giving effect to passed by the Ld.AO for assessment year 2013-14 deleted the addition. We do not see that the Ld. CIT (A) has verified the documents/evidences filed by assessee in deleting the disallowance made by the Ld. AO. In our view the issue needs to be remanded to the Ld.AO to verify the documentary evidences filed by assessee. Assessee is directed to file all requisite details in support of the claim. Needless to say that proper opportunity of being heard shall be granted to assessee. Ld. AO shall consider the claim of assessee in accordance with law.

Accordingly the ground raised by revenue stands allowed for statistical purposes.

13. In respect of the appeals filed by assessee, the issues raised are in respect of disallowance of bad debts and Pooja expenses.

14. The authorities below have observed that assessee could not file any documentary doc evidences in order to support the claim.

The Ld.AR before us submitted that all the details were given to the authorities below and the observations are erroneous. He relied on observations of the Ld. AO para 13.4.

15. The Ld. CIT DR relied on the orders passed by authorities below.

16. We have perused submissions advanced by both sides in light of records placed before us.

17. We note that these disallowances made by the Ld. AO has not been verified having regard to the books of accounts,/Ledger's etc. We accordingly direct Ld. AO to verify the same. In respect of Pooja expenses a reasonable amount of expenses deserves to be allowed which are attributable to the annual celebrations within the office.

18. The Assessee is directed to file all relevant documents in support of its claim in respect of bad debts which shall be considered by the Ld. AO having regards to the various judicial pronouncements on this issue. Needless to say that proper opportunity of being heard shall be granted to assessee.

Accordingly these grounds raised by assessee stands allowed for statistical purposes.

In the result appeal filed by assessee as well as revenue stands allowed for statistical purposes

order pronounced in open court on 23rd June, 2021.

(B.R BASKARAN)
Accountant Member
Bangalore,
Dated, the 23rd June, 2021.
/Vms/

(BEENA PILLAI)
Judicial Member

Copy to:

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

By order

Assistant Registrar, ITAT, Bangalore

		Date	Initial	
1.	Draft dictated on	On Dragon		Sr.PS
2.	Draft placed before author	-6-2021		Sr.PS
3.	Draft proposed & placed before the second member	-6-2021		JM/AM
4.	Draft discussed/approved by Second Member.	-6-2021		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	-6-2021		Sr.PS/PS
6.	Kept for pronouncement on	-6-2021		Sr.PS
7.	Date of uploading the order on Website	-6-2021		Sr.PS
8.	If not uploaded, furnish the reason	--		Sr.PS
9.	File sent to the Bench Clerk	-6-2021		Sr.PS
10.	Date on which file goes to the AR			
11.	Date on which file goes to the Head Clerk.			
12.	Date of dispatch of Order.			
13.	Draft dictation sheets are attached	No		Sr.PS