

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
BENCH 'C', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA Nos. 2065 & 2066/Del/2018
(Assessment Years : 2011-12 & 2014-15)

ACIT Special Range - 4, New Delhi PAN No. AAACH 0632 A (APPELLANT)	Vs.	M/s India Infrastructure Finance Company Ltd., 8 th Floor, Hindustan Times Building, 18 & 20 Kasturba Gandhi Marg, New Delhi - 110001 (RESPONDENT)
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Assessee by	Shri Atul Ninawat, Adv.
Revenue by	Shri Sharwan Kumar Gautam, CIT(DR)

Date of hearing:	18.08.2021
Date of Pronouncement:	25.08.2021

ORDER

PER ANIL CHATURVEDI, AM :

Both the present appeals filed by the Revenue are directed against the order of the Commissioner of Income Tax (A)-35, New Delhi dated 15.12.2017 relating to Assessment Years 2011-12 & 2014-15.

2. We first proceed with ITA No. 2065/DEL/2018 for Assessment Year 2011-12.

3. The relevant facts as culled from the material on records are as under:

4. Assessee is a company which had filed its return of income for A.Y. 2011-12 on 29.09.2011 declaring total income at Rs.386,15,69,830/-. The return of income was revised on 30.03.2012 at a total income of Rs.382,66,09,666/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 12.03.2014 accepting the returned income in the revised return. Thereafter, notice u/s 148 of the Act was issued to the assessee on 30.04.2015 and consequently assessment was framed u/s 147/143(3) of the Act vide order dated 16.11.2016 and the total income was determined at Rs.406,60,87,364/-. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who vide order dated 15.12.2017 granted substantial relief to the assessee. Aggrieved by the order of CIT(A), Revenue is now before us and has raised the following grounds:

1. *On the facts and circumstances of the case, the Ld. CIT(A) erred in law in restricting the disallowance of deduction u/s 36(1)(vii)(c) of the Act, 1961 to Rs.12,52,78,019/-(Rs.22,85,38,608 – Rs.10,32,60,679) as against Rs.22,85,38,608/- disallowed by the Assessing Officer.*
2. *Whether on the facts and circumstances of the case the Ld. CIT(A) is correct in law in holding that the creating of reserve for loan assets amounts to creating of actual provision for doubtful debts and qualifies for deduction u/s 36(1)(vii)(c) of the Act.*

3. *The appellant craves leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of appeal.*

5. AO noticed that assessee had claimed deduction of Rs.23,06,26,073/- u/s 36(1)(vii)(c) of the Act for the 'provisions for bad and doubtful debts'. He noticed that assessee had not created any such provision in the books of account. Assessee was therefore asked to explain as to why the claim of deduction should not be disallowed. Assessee *inter alia* submitted that assessee has made a 'provisions for bad and doubtful debts' in the books of accounts amounting to Rs.10,32,60,680/-. The submissions of the assessee was not found acceptable to AO as he was of the view that the provision created by the assessee does not indicate as to whether these provisions are for standard assets or bad and doubtful debts. He was further of the view that 'provisions for standard assets' cannot be considered as 'provisions for bad and doubtful debts'. He therefore held that since assessee has not created any 'provision for bad and doubtful debts' in its books of accounts it is not eligible for deduction u/s 36(1)(vii)(c) of the Act and accordingly the claim of deduction amounting to Rs.22,85,38,698/- was denied. Aggrieved by the order of AO, assessee carried the matter before the CIT(A). CIT(A) after considering the submissions of the assessee noted that assessee has made a provision in the accounts for bad and doubtful debts but with the nomenclature and 'Reserve for bad and doubtful debts' for Rs.10,32,60,679/- as being evident from Financial Statements. She accordingly restricted the addition to

Rs.12,52,78,019/- (Rs.22,85,38,698 – 10,32,60,679). Aggrieved by the order of CIT(A), Revenue is now in appeal before us.

6. Before us, Learned DR took us through the order of the AO and supported the order of AO. Learned AR on the other hand reiterated the submissions made before the lower authorities and further pointed from the copy of the financial statements which are placed in the paper book that assessee had indeed created “provision for bad and doubtful debts” though the nomenclature used was ‘Reserve for bad and doubtful debts’. He thus supported the order of CIT(A).

7. We have heard the rival submissions and perused the materials available on record. The AO had denied the claim of deduction u/s 36(1)(vii)(c) of the Act for the reason that according to him assessee has not created any ‘provision for bad and doubtful debts’ in the books of accounts. We however, find that CIT(A), while deciding the issue in favour of the assessee, has given a categorical finding that assessee had created a provision in the books of account of “bad and doubtful debts” but with the nomenclature “Reserve for bad and doubtful debts” amounting to Rs.10,32,60,679.93/-.

8. Before us, no fallacy in the findings of CIT(A) has been pointed out by the Revenue. In view of the aforesaid facts, we find no reason to interfere to the order of CIT(A) and **thus the appeal of the Revenue is dismissed.**

9. Now we take up the appeal for A.Y. 2014-15.

10. AO noticed that assessee had claimed deduction of Rs. 63,23,40,447/- u/s 36(1)(vii)(c) of the Act on account of 'provision for bad and doubtful debts'. He noticed that in the annual accounts assessee had created a 'provision for bad and doubtful debts' only to the extent of Rs.21,30,19,000/-. The assessee was asked to explain the reason of the difference in the two amounts. The assessee, inter alia, submitted that it has created provision amounting to Rs. 327.80 crores and, therefore, the claim of deduction amounting to Rs. 63.23 crores to be allowed. The submissions of the assessee was not found acceptable to AO. AO was of the view that out of the provision for Rs. 327.8 crore (rounded off), provision for doubtful assets was only to the extent of Rs.21.30 crore and the remaining amount was towards provisions for standard assets and sub-standard assets. The submissions of the assessee that it had followed RBI guidelines for assets classification and provisioning was not found acceptable to AO as he was of the view that RBI norms cannot over ride for Income Tax provisions. He accordingly denied the claim of the deduction of Rs.41,93,21,447/-. Aggrieved by the order of AO, assessee carried the matter before the CIT(A). CIT(A) while deciding the issue in favour of the assessee has given a finding that the total provision on bad and doubtful debts created in the books of accounts amounted to Rs. 212.81 crores(191.51 crores + 21.30 crores), whereas the deduction claimed by the

assessee in the return of income amounted to only Rs.63.23 crores. It was, therefore, held that there was no ground for addition u/s 36(1)(viia)(c) of the Act. She accordingly deleted the addition of Rs. 41,93,21,447/-. Aggrieved by the order of CIT(A), Revenue is in appeal before us.

11. Before us, Learned DR supported the order of AO.

12. Learned AR on the other hand supported the order of CIT(A).

13. We have heard the rival submissions and perused the materials available on record. The issue in the present ground is with respect to deletion of addition made u/s 36(1)(viia)(c) of the Act. We find that CIT(A) while allowing the appeal of the assessee has given a finding that though the assessee has created the provision in the books of accounts of Rs.212.81 Crores but has claimed deduction only to the extent of Rs. 63.23 crores and since the Assessing Officer has already allowed the claim of deduction of Rs. 21.30 crores, there was no ground for addition of balance of Rs. 41.93 crores u/s 36(1)(viia)(c) of the Act.

14. Before us, no fallacy in the findings of CIT(A) has been pointed out by the Revenue. In view of the aforesaid facts, we find no reason to interfere to the order of CIT(A) and **thus the appeal of the Revenue is dismissed.**

15. In the combined result, both the appeals of the Revenue are dismissed.

Order pronounced in the open court on 25.08.2021.

sd/-

sd/-

**(KULDIP SINGH)
JUDICIAL MEMBER**

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 25 .08.2021

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI