

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

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

ITA No.1369/Bang/2019
Assessment Year: 2013-14

M/s. WS Retail Services Pvt. Ltd. Ozone Manay Tech Park, No.56/18 B Block 9 th Floor Garvebhavipalya Hosur Road, Bangalore 560 068 PAN NO :AAACW8725F	Vs.	ACIT Circle-7(1)(2) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri K.R. Vasudevan, A.R.
Respondent by	:	Shri Pradeep Kumar, D.R.

Date of Hearing	:	23.12.2021
Date of Pronouncement	:	23.12.2021

ORDER

PERB.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 28.3.2019 passed by Ld. CIT(A)-7, Bengaluru and it relates to assessment year 2013-14. The assessee is aggrieved by the decision of Ld. CIT(A) in confirming the following additions:-

a) Disallowance of bad debts written off	-Rs. 73,03,165
b) Disallowance of advances written off	-Rs.1,24,46,053
c) Disallowance of cash loss	<u>-Rs. 70,32,027</u>
Total	<u>Rs.2,67,81,245</u>

2. The facts relating to the case are stated in brief. The assessee is engaged in the retail distribution of books, mobiles, media,

computers, gaming consoles and other accessories. The Ld. A.R. submitted that the assessee sells these products mainly in e-commerce portal and its customer base is spread across the country. During the course of assessment proceedings, the A.O. asked for details of bad debts/advances written off amounting to Rs.2,67,81,245/-. The A.O. asked the assessee to furnish the details along with ledger account copies on 14.3.2016. The assessee furnished a reply on 17.3.2016 explaining the nature of the claim. The A.O., however, observed that the assessee was not able to furnish ledger account of the person against whose balance bad debt/advances was written off. The A.O. also took the view that the assessee has written off bad debt in the very same year without making any efforts to collect the dues. The A.O. placed reliance on the decision rendered by Hon'ble Apex court in the case of Travancore Tea Estates Company Ltd. Vs. CIT (1999) 233 ITR 203, wherein it was held that the assessee should show some material in support of the bad debt claim. Accordingly, the A.O. disallowed the above said aggregate amount of Rs.2,67,81,245/-.

3. Before Ld. CIT(A), the assessee furnished additional evidences showing party wise details of bad debt written off, advances written off and cash loss claimed by the assessee. The Ld. CIT(A) refused to admit the additional evidences. He observed that the assessee was provided with an ample opportunity to furnish the details by the A.O., but the assessee has failed to furnish the details before him during the course of assessment proceedings. With regard to bad debt claim, the assessee placed reliance on the decision rendered by Hon'ble Supreme Court in the case of TRF Ltd. (2010) 190 Taxman 391 and submitted that it is not necessary for the assessee to establish that the debt has become irrecoverable. The Ld. CIT(A) however placed reliance on the decision rendered by Hon'ble ITAT Hyderabad in the case of Natco Pharma Ltd. 29 Taxmann.com 297 and also decision rendered by Bangalore bench of ITAT in the case

of Embassy Classic Pvt. Ltd. 20 Taxmann.com 291, wherein it was held that the assessee cannot convert any live amount into a bad debt only on the basis of technical rule of writing off. Accordingly, the Ld. CIT(A) held that the assessee has not explained the claim with details and evidences and accordingly, confirmed the disallowance made by the A.O. Aggrieved, the assessee is in appeal before us.

4. The Ld. A.R. submitted that the assessee, in fact, did not get enough opportunity to furnish the details called for by the A.O. He submitted that the A.O. called for details only on 14.3.2016 and the assessee furnished detailed explanation with regard to claim on 17.3.2016. The A.O. has finally passed the order on 28.3.2016. Since the assessee is dealing with various customers through e-commerce platform, it took lot of time for the assessee to collate the details of ledger accounts of each of the customer as sought by the A.O. Hence, the ledger accounts of each of the customer could not be furnished before the A.O. However, detailed evidences were furnished before the Ld. CIT(A), but he refused to admit them. Accordingly, the Ld. A.R. submitted that the assessee would be put into grave difficulties if the evidences furnished by the assessee are not looked into and justice rendered. Accordingly, he prayed that the additional evidences furnished before Ld. CIT(A) be admitted by the Tribunal and the matter may be restored to the file of the A.O. for examining the disallowances made by him afresh.

5. The Ld. D.R. however supported the order passed by Ld. CIT(A) and submitted that the assessee has failed to furnish the details that were called for by the A.O. Hence, the order of Ld. CIT(A) does not call for any interference.

6. Having heard the rival submissions, we are of the view that there is merit in the submissions made by Ld. A.R. We notice that

the A.O. has called for the details at the fag end of the assessment proceedings. It is submitted that the assessee is mostly selling his products in e-commerce platform and its customer base is spread across all over India. We also notice that the assessee has explained before AO the reasons for write off bad debts, advances and cash loss. The Ld. A.R. also submitted that it took lot of time for the assessee to collate details of individual customers in view of numerous numbers of customers. Under these set of facts, we are of the view that there was sufficient reason for the assessee for not furnishing the ledger account details before the A.O. Accordingly, we admit the additional evidences furnished by the assessee before Ld. CIT(A).

7. Since these evidences require examination at the end of the A.O., we are of the view the entire matters requires fresh adjudication at the end of AO. Accordingly, we set aside the order passed by the Ld. CIT(A) and restore all the issues to the file of the A.O. for examining them afresh. After considering the evidences that may be furnished by the assessee and also information and explanations that may be given by the assessee, the A.O. may take appropriate decision in accordance with law.

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

Order pronounced in the open court on 23rd Dec, 2021

Sd/-
(George George K.)
Judicial Member

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

Bangalore,
Dated 23rd Dec, 2021.
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.