

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” Bench, Mumbai
Before Shri Shamim Yahya, Accountant Member

I.T.A. No. 152/Mum/2021
(Assessment Year 2013-14)

Mahadeo Shahra & Sons 708, Tulsiyani Chambers Nariman Point Mumbai-400 021 PAN : AACFM0431H (Appellant)	Vs.	DCIT,CC-7(1) Aaykar bhawan Mumbai-400 020 (Respondent)
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Assessee by	None
Department by	Shri Abhirama Karthikeyan
Date of Hearing	15.12.2021
Date of Pronouncement	14.02.2022

O R D E R

Per Shri Shamim Yahya (AM) :-

This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals)-49 dated 20.01.2021 and pertains to assessment year 2013-14.

2. Grounds of appeal read as under:-

- 1) That the learned CIT A erred in confirming the action of the assessing Officer is quite arbitrary, unwarranted ,unjustified and bad in law .
- 2) That the confirmation of bed debts Rs.33,76,935/- is quite illegal and without considering the paper book filed during the course of regular hearing already made by predecessor CIT (A).
- 3) That thus order so passed is quite illegal, arbitrary unwarranted ,unjustified and bad in law .and without considering proper facts of the case .

3. Brief facts of the case are that in the assessment order AO noted that assessee has return of Rs. 33,76,935/- as bad debt. In enquiry assessee explained that assessee has given a loan to Smt. Ruchi Mohan and interest was charged every year. That the financial position of the debtor is not good and is not in a position to make the repayment. Hence, the loan including accumulated interest was written off as bad debt. The AO rejected the claim and held as under:-

“ The amount of loan initially advanced by the assessee was capital in nature and the assessee has not furnished any details showing that it has offered the interest income during the earlier years. Therefore, the assessee’s claim of bad debt of entire amount of Rs. 33,76,935/- is disallowed and added back to the total income. Penalty u/s. 271(1)(c) is initiated separately for concealment of income.”

4. The Ld.CIT(A) confirmed the order holding as under:-

“The assessee submitted before the AO that the interest-bearing loan was given to one Smt. Ruchi Mohan in the year 1992-93, interest on which was claimed to have been charged every year. It was claimed that the assessee could not recover the loan because the financial position of the debtor was not good. The assessee submitted ledger copies of the outstanding loan amount and the interest from 2000-01 to 2005-06, The AO noted that the loan was capital in nature and the assessee did not produce any details to prove that the interest was offered as income for the earlier years. The AO has noted that the assessee has furnished only the ledger copies of Smt. Ruchi Mohan in its books from FY 1990-91 to FY 2005-06 claiming that the said loan was given in AY 1991-92 being Rs. 3,37,714/-. Since the assessee did not furnish any details so as to establish that the interest was offered as income in earlier years, the entire Bad Debt written off amounting to Rs. 33,76,935/- was disallowed.”

5. Against the above order, assessee has filed appeal before ITAT.

6. I have heard the ld. DR and perused the records. I find that one of the grievances of the assessee in the grounds of appeal is that assessee has submitted a detailed paper book and ld.CIT(A) has decided the issue without considering the same. I note that ld.CIT(A) has noted that assessee has not furnished any details so as to establish that

the interest was offered as income in earlier year and the entire bad debt written off was disallowed. However, it is the claim of the assessee that it had submitted a paper book before the Id.CIT(A), giving the requisite details who has not considering the same. In this regard assessee has also submitted before ITAT the said paper book. I deem it appropriate to remitted the issue to file of the Id.CIT(A). The Id.CIT(A) is directed to consider the issue afresh in light of the paper book, which has been submitted before him and also before ITAT, which has not been considered by the Id.CIT(A).

7. In the result, this appeal by the assessee stands allowed for statistical purpose.

Pronounced in the open court on 14.02.2022

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 14 .02.2022

Thirumalesh, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai