

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI

BEFORE SHRI M BALAGANESH, AM AND SHRI PAVAN KUMAR GADALE, JM

ITA No. 915/Mum/2020

(Assessment Year 2015-16)

Eat India Private Limited
2, Silk House, Silk Bazar,
630, JSS Road,
Mumbai-400 002

Vs.

The CIT (A) -9
6th Floor, Aayakar Bhavan,
M.K. Road,
Mumbai-400 020

(Appellant)

(Respondent)

PAN No. AAACE1868M

Assessee by : Shri Jigar Mehta, AR

Revenue by : Shri S.G. Mehta, DR

Date of hearing: 31.05.2022

Date of pronouncement : 08.06.2022

ORDER

PER M BALAGANESH, AM:

01. This appeal in ITA No.915/Mum/2020 for A.Y. 2015-16 arise out of the order by the learned Commissioner of Income-tax (Appeals)-9, Mumbai [in short learned CIT (A)] in appeal No. CIT (A)-9/158/2017-18 dated 19th July, 2019 against the order of assessment passed under Section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'Act') dated 18th December 2017, by the learned Income Tax Officer, Ward -4(1)(4), Mumbai (hereinafter referred to as learned AO).
02. At the outset, there is a delay of 133 days in filing of appeal by the assessee before us. We find that the

assessee had filed an Affidavit explaining the reasons for the delay. On perusal of the said reasons, we are convinced of the fact that the assessee was prevented from reasonable cause from filing the appeal before us in time. Hence we are inclined to condone the delay and admit the appeal for adjudication.

03. The only issue to be decided in this appeal is as to whether the Id CIT(A) was justified in confirming the disallowance of Rs 8,08,045/- towards sales rebates, rate difference, discounts, sales returns in the facts and circumstances of the case.
04. We have heard the rival submissions and perused the materials available on record. We find that the assessee is a company engaged in the business of trading in plant and machinery of weavings. It also exported machinery spares and dealt in supersizing material during the year under consideration. During the course of assessment proceedings, the assessee was asked by the Id. AO to reconcile the figures mentioned in Form 26AS with the sales turnover disclosed by the assessee in its profit and loss account on account of contract receipts u/s 194C of the Act. The total contract receipts was Rs 23,64,243- as per Form 26AS while as per Profit and Loss Account, it was Rs 15,75,066/- The assessee was asked to reconcile the difference. The assessee vide its letter dated 30.11.2017 submitted the reconciliation statement before the Id. AO.



This reconciliation statement is also reproduced in pages 3 & 4 of the assessment order. The assessee in the reconciliation statement explained that the difference is on account of rate difference, discount and rebate on sales pertaining to earlier years, which was deducted by the concerned debtors while making payments to the assessee during the year. It was also stated that all the efforts of the assessee to recover the differential amounts were in vain. Accordingly, the assessee wrote off the differential sum of Rs 8,08,045/- as irrecoverable debts from its customers in its books and reduced the same from the sales figure in the financial statements. We find that the assessee also provided the confirmation letters from all the parties before the Id. AO wherein they have confirmed that they had deducted the rate difference, rebates and discounts etc as and when necessary and made the balance payments to the assessee. Further the ledger accounts of all the parties were also produced before the Id . AO by the assessee. We find that the Id .AO did not agree to the contentions of the assessee regarding the write off of irrecoverable debts being reduced from the sales figure in the profit and loss account and the same should have been claimed only as bad debts. The learned AO however strangely concluded that the assessee had been caught on wrong foot and proceeded to treat the difference of Rs 8,08,045/- as understated contract



receipts and added to the total income in the assessment. This was confirmed by the Id. CIT(A).

05. Admittedly, the contract receipts were duly offered to tax in earlier years on accrual basis. Admittedly, the parties had made the payments to the assessee only during the year, wherein, they had deducted a sum of Rs 8,08,045/- towards rate difference, discounts, rebates, returns etc. This fact is also evident from the confirmation letters filed by the parties and the ledger accounts produced before the Id. AO. Hence income has been duly offered to tax by the assessee in terms of section 36(2) of the Act in earlier years. It is not in dispute that the assessee had duly written off the irrecoverable portion of the debts in the sum of Rs 8,08,045/- in its books during the year under consideration. In our considered opinion, merely because the assessee had not claimed the differential irrecoverable amount of Rs 8,08,045/- as bad debts written off and the same was reduced from the gross contract receipts, it would only result in the same impact as far as the determination of net profit is concerned and it would not alter the taxable income in any manner. We hold that the lower authorities ought to have appreciated the substance of the transaction than its form. Since income is already offered to tax in terms of section 36(2) of the Act in earlier years, the irrecoverable portion which is written off in the books becomes an allowable deduction as bad debts u/s 36(1)(vii) of the Act. Hence we have no hesitation in



deleting the addition of Rs 8,08,045/- made by the lower authorities. Accordingly, the grounds raised by the assessee are allowed.

06. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 08.06.2022.

Sd/-
(PAVAN KUMAR GADALE)
(JUDICIAL MEMBER)

Sd/-
(M BALAAGANESH)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 08.06.2022

Sudip Sarkar, 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.

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai