

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'A' NEW DELHI****BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER  
AND  
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER****I.T.A. No. 8743/DEL/2019 (A.Y 2016-17)**

Bony Polymers Pvt. Ltd. Plot No. 37-P-Sec-6, Faridabad, Haryana <b>PAN: AABCB1594N</b> <b>(APPELLANT)</b>	Vs	ACIT Circle-5(1) New Delhi  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. Baldev Raj, CA</b>
<b>Respondent by</b>	<b>Sh. Kanav Bali, Sr. DR</b>

<b>Date of Hearing</b>	<b>18.10.2022</b>
<b>Date of Pronouncement</b>	<b>20.10.2022</b>

**ORDER****PER YOGESH KUMAR U.S., JM**

The appeal has been filed by the assessee against the order dated 22/08/2019 passed by the Ld.CIT(A) -2, New Delhi for Assessment Year 2016-17.

2. The grounds of appeal are as under:-

"1. That on the facts and circumstances of the case, the order dated 17/12/2018 as passed by the ACIT, Circle 5(1)), New Delhi [hereinafter referred to as "the A.O."] under section 143(3) of the Income-tax Act [hereinafter referred to as "the Act"] and as upheld by the Commissioner of Income-tax (Appeals)-2, New Delhi [hereinafter referred to as "the CIT(A)"] is bad at law and void ab initio.

2. *That on the facts and circumstances of the case, the bad debts to the tune of Rs. 1,52,93,000/-disallowed by the Ld. AO and upheld by the CIT(A) is bad in law and on facts.*

3.1 *All the above-mentioned grounds are without prejudice and independent of each other; and*

3.2 *That the appellant prays for leave to add, alter, amend and / or vary by the ground(s) of appeal at or before the time of hearing.”*

3. Brief facts of the case are that, the assessee has filed return declaring NIL income for the year under consideration, notice u/s 143(2) of the Act has been issued, the case of the assessee was selected for scrutiny for manual scrutiny, questionnaires were served and the assessee has participated in the assessment proceedings. The assessment order came to be passed on 17/12/2018 by making an addition of Rs. 1,52,93,000/- observing that “though the multiple opportunities have been provided to the assessee to prove that the bad debt declared by the assessee had been actually declared as income. But the assessee had merely provided the ledger of bad debts written off. Before writing of bad debts it is necessary that the amount must have been included in the tax nets in the previous year, since the assessee has failed to establish the same the doubtful debts amounting to Rs. 1,52,93,000/- has been disallowed and added back to the return income of the assessee.”

4. As against the assessment order dated 17/12/2018, the assessee has preferred an appeal before the Ld.CIT (A). The Ld.CIT (A) vide order dated 22/08/2019 dismissed the appeal observing as under:-

*“ i. Pursuant to the Explanation inserted w.r.e.f. 1.4.1989, a mere provision for bad debt is not entitled to deduction u/s 36(l)(vii). Besides debiting the P&L A/c and creating a provision for bad debts, the assessee has to also obliterate the said provision by*

*reducing the corresponding amount from the debtors account in the Balance Sheet. In the present case, there is no evidence that the amount has been reduced from debtors on asset side in the balance sheet also. ,*

*ii. Further, as per Sec. 36(2)(i) of the IT Act, such debt has to be taken into account in computing the income of the assessee of the previous year in which such debt is written off or of an earlier previous year. In the present case, there is no evidence that such debt has to be taken into account in computing the income of the assessee of the previous year.”*

5. Aggrieved by the order of the Ld. CITA (A) dated 22/08/2019, the assessee has preferred the present appeal on the grounds mentioned above.

6. The Ld. Counsel for the assessee drawn our attention to the paper book and submitted that the assessee had produced the entire material before the Ld.CIT(A) to prove the case of the assessee such as copy of the Board Resolution, summary of Sundry debtors/Creditors accounts whom account has been written off during the year, copy of the ledger account of bad debts written off, copy of the letter dated 28/06/2019 filed before CIT(A) along with Annexures, copy of the sample ledger account of several parties etc. The Ld. Counsel for the assessee further submitted that the lower authorities have not examined the documents produced by the assessee, therefore, prayed for setting aside the matter to the file of A.O. for de-novo consideration.

7. Per contra, the Ld. DR submitted that he has no objection to setting aside to the file of Ld. A.O.

8. Recording the submissions of both the parties and considering the fact and circumstances of the case, we deem it fit to remand the matter to the file of Ld. A.O. for de-novo consideration with a direction to consider all the documents/materials produced by the assessee and pass an order in accordance with law.

9. In view of setting aside the matter to the file of Ld. A.O. for passing an order on merit, the other grounds of appeal on merit requires no adjudication at our hands.

10. In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

**Order pronounced in the Open Court on this 20<sup>th</sup> Day of October , 2022**

**Sd/-**

**(B. R. R. KUMAR)**  
**ACCOUNTANT MEMBER**

**Sd/-**

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Dated: 20/10/2022  
*R. Naheed \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

