

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **1166/Chny/2014**
निर्धारण वर्ष / Assessment Year: 2006-07

The Income Tax Officer,
Business Ward -XV(4),
Chennai - 600 034.

Shri. C. Krishnamurthy,
v. No. 74, Nattumuthu Street,
Teynampet, Chennai - 18.
[PAN: AAOPK-8159-L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. P. Sajit Kumar, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri. Raghav Rajeev Menon, Advocate

सुनवाई की तारीख/Date of Hearing : 01.12.2022

घोषणा की तारीख/Date of Pronouncement : 14.12.2022

आदेश / O R D E R

PER G. MANJUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-V, Chennai, dated 12.12.2013 and pertains to assessment year 2006-07.

2. The Revenue has raised the following grounds of appeal:

"1. The order of the Ld. CIT(A) is contrary to law and facts of the case.

2.1 The Ld. CIT(A) erred in directing the Assessing Officer to delete the addition of Bad Debts of Rs. 12,06,942/-.

2.2 The Ld. CIT(A) failed to note that the assessee had not written off Bad Debts against the sundry debtors of earlier previous years but deducted as Drawings from the capital account and crediting the outstanding customer's account.

3. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored."

3. The brief facts of the case are that, the appellant is an individual and share broker, deriving income from share broking. The assessee had filed his return of income for the assessment year 2006-07 on 12.11.2007, declaring total income of Rs. 96,657/-. During the course of assessment proceedings, the AO noticed that the assessee has claimed bad debts written off amounting to Rs. 14,79,035/-, whereas, the sundry debtor shown by the assessee in the balance sheet as on 31.03.2005 was at Rs. 2,72,093/-. Therefore, difference amount of Rs. 12,06,942/- has been disallowed on the ground that the assessee could not justify write off bad debts. The assessee carried the matter in appeal before the CIT(A). The

Ld. CIT(A), vide their order dated 12.12.2013 allowed appeal filed by the assessee and deleted addition made towards disallowance of bad debt written off. The Revenue carried the matter in further appeal before the Tribunal. The ITAT, Chennai Benches in ITA No. 1166/Chny/2014 dated 05.06.2015 allowed appeal filed by the Revenue and sustained addition made towards disallowance of bad debts. The assessee carried the matter in further appeal before the Hon'ble High Court of Madras, and the Hon'ble High Court of Judicature at Madras in TCA No. 977 & 978 of 2018 dated 09.01.2019, restored the appeals to the file of the Tribunal to be heard and decide afresh. In pursuant to directions of the Tribunal, the appeal has been disposed off by the Tribunal vide their order dated 26.06.2019 and dismissed the appeal filed by the Revenue on low tax effect, in light of CBDT Circular No. 03/2018 dated 11.07.2018. The Revenue has filed a Miscellaneous Application and argued that issue involved in appeal comes under exception as provided in para 10(c) of CBDT Circular No. 03/2018 dated 11.07.2018 and thus, the Tribunal vide their order dated 02.08.2022 in MA No. 274/Chny/2019 recalled the order of the Tribunal dated

26.06.2019. Therefore, the present appeal needs to be disposed on merits.

4. The Ld. DR, submitted that the Ld. CIT(A) erred in directing the Assessing Officer to delete addition on bad debts of Rs. 12,06,942/- without appreciating fact that the sundry debtors shown in the books of accounts is less than the amount of bad debts written off claimed by the assessee.

5. The Ld. Counsel for the assessee, on the other hand submitted that the assessee has accounted receivables from clients by debiting to drawings account, wherever it was noticed that the debits are not recoverable. However, wherever the debits are recoverable, the assessee has shown it as sundry debtors in the books of accounts. These facts has been explained to the Id. CIT(A). The Id. CIT(A) after considering relevant facts has rightly deleted addition made by the AO and their order should be upheld.

6. We have heard both the parties, perused materials available on record and gone through orders of the authorities

below. The AO has disallowed bad debts written off amounting to Rs. 12,06,942/-, on the ground that the assessee has claimed bad debts written off at Rs.14,79,035/-, whereas, the outstanding sundry debtors as per books of accounts was at Rs. 2,72,093/-. According to the AO, although the assessee has furnished necessary evidences to prove write off of bad debts, but the amount pertains to bad debt written off was not accounted in the books of accounts of the assessee. It was the explanation of the assessee that bad debts written off amount shown as drawings vis-à-vis capital account and crediting in the parties account, wherever the amounts were not recoverable. We find that, although entries passed in the books of accounts to account bad debts is not in accordance with accepted accounting principles, but yet, what has to be seen is whether the assessee is able to justify claim of bad debt with necessary evidence or not. In this case, the AO never disputed the fact that the assessee has filed necessary evidences to prove the claim of bad debts. In fact, the AO has accepted the fact that the assessee has furnished necessary evidence, but disallowed bad debts written off only on the ground that the assessee has not shown bad debts written off

as receivables in the books of accounts of the assessee. We find that the assessee has filed all possible evidences to explain accounting term given to sundry debtors in his books of accounts, and as per explanation furnished by the assessee, amount written off as bad debt was debited to drawings account vis-à-vis capital account and crediting in respective sundry debtors account. Further, the assessee being a share broker has to report all transactions to regulatory authorities like SIBI etc., further, the transactions of the assessee are through proper channel. Therefore, in our considered view, when the assessee has filed necessary evidence to establish the fact that the amount written off towards bad debt is irrecoverable, the AO is erred in disallowing bad debts written off merely for the reason that entries passed in books of accounts is not in accordance with prescribed accounting method. The Ld. CIT(A) after considering relevant facts has rightly held that the assessee has proved bad debts written off with necessary evidence, and thus, he has directed the AO to delete the addition made towards disallowance of bad debts. Hence, we are inclined to uphold the findings of the Id. CIT(A) and dismiss appeal filed by the Revenue.

7. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the court on 14th December, 2022 at Chennai.

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिकसदस्य/Judicial Member

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 14th December, 2022

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |