

IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "F" : DELHI]

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
A N D
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No. 2538/Del/2018
निर्धारणवर्ष /Assessment Year : 2012-13

M/s. Rallison Electricals Pvt. Ltd., G-1/118, Mayapuri Industrial Area, Phase-II, New Delhi - 110 064.	<u>बनाम</u> Vs.	DCIT, Circle : 21 (1), New Delhi.
PAN No. AAACR4510P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारितकीओरसे /Assessee by :	Shri Satish Agarwal, C. A.; & Shri Rachit Agarwal, C. A.;
राजस्वकीओरसे/Department by:	Shri B. S. Anand, Sr. D. R.;

सुनवाईकीतारीख/ Date of hearing :	21/11/2022
उद्घोषणाकीतारीख/Pronouncement on :	09/02/2023

आदेश / O R D E R

PER C. N. PRASAD, J. M. :

1. This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-11 [hereinafter referred

to CIT (Appeals)] New Delhi, dated 06.02.2018 for the assessment year 2012-13 in sustaining the disallowance of Rs.1,15,41,300/- claimed as bad debt/business loss by the assessee on account of rejection of goods in inferior quality by the customers.

2. Briefly stated the facts are that during the assessment proceedings from the annual report of the assessee the Assessing Officer noticed that assessee had shown loss due to rejection of goods. The assessee was required to explain along with the supporting regarding the said loss. The assessee submitted that the customers had rejected the goods on account of inferior quality and, therefore, the same was claimed as bad debt/business loss. Not convinced with the submissions the Assessing Officer disallowed the claim of the assessee.

3. On appeal the Id. CIT (Appeals) sustained the disallowance on the ground that the evidences furnished by the assessee in the form of ledger account, e-mail communication etc. could not be verifiable independently as the party did not respond to the notice issued by the Assessing Officer under section 133(6) of the Act.

4.1 Before us the Id. Counsel for the assessee submits that the appellant company had made sales of Rs. 70.33 crores during the year under appeal as compared to Rs. 300.53 crores during the Assessment Year 2011-12. The appellant company had been facing a liquidity crisis. The assessee company's bank accounts had been declared as NOD-Performing Asset (NPA) on 31/07/2011 (by SBI and State Bank of Mysore),

on 31.03.20 12 (by ICICI Bank) and on 31-03-2012 (by Oriental Bank of Commerce). The assessee company had been issued notice under SARFAESI Act, 2002 for recovery of outstanding demand of the banks. The assessee company was not able to meet the time schedule for delivery of orders nor execute the orders of the customers due to lack of adequate working capital which resulted in steep decline in sale during the year under appeal.

4.2 Ld. Counsel submits that M/s. TTD Industries. Kolkata was a regular customer to whom sales of Rs.11,56,74,705/- had been made between 01.04.2008 to 31.03.2011 and it had an outstanding balance due to the assessee of Rs.7,62.50,997/- as on 01.04.2011. (Copy of ledger account of the TTD Industries in the books of account of the assessee for the period 1.04.2008 to 31.03.2012 are at page no. 2-6 of the Paper book). The customer, TTD Industries claimed that it was supplied inferior quality of goods and those goods were rejected by the debtor vide its email communication dated 15.04.2021 claiming a rebate of Rs.1,15,41,300/- (Copy of e-mail enclosed in the paper book at page No. 1 of the paper book).

4.3 Ld. Counsel submits that the assessee had submitted additional evidence during the course of appellate proceedings before Ld. CIT(A) which was admitted and additional evidences were sent to the Assessing Officer for his remand report. The ld. Counsel submitted that the assessee had submitted the below mentioned additional evidences before the CIT (Appeals).

- (i) Copy of journal voucher of the company dated 15.04.20 12 for debiting in its books of account and allowing the write-off of the amount claimed for inferior quality of goods supplied to

Mis TTD Industries, Kolkata. (Copy placed in the paper book at page No. 7)

(ii) Copy of email communication received from Mis TTD Industries, raising a claim of Rs.1,15,41,300/- against the assessee. (Copy placed in the paper book at page No. 1)

(iii) Copy of ledger account of the TTD Industries in the books of account of the assessee for the period 01.04.2008 to 31.03.2012. (Copy placed in the paper book at page No. 2-6).

5.1 The Id. Counsel for assessee submitted that perusal of the ledger account of TTD Industries that during the period 01.04.2011 to 31.04.2012 shows the assessee had credited an amount of Rs.1,15,41,300/- deducted by the customer for his claim of receipt of inferior quality of goods in his ledger account. It is submitted that the claimed inferior quality good were never returned to the assessee and the loss claimed was in the nature of bad debt/business loss. It is submitted that the assessing Officer had issued notice U/s. 133(6) to TTD Industries, Kolkata during the remand proceedings which was not replied to by the customer and the Ld. CIT(A) has upheld the disallowance made by the Assessing Officer by holding that due to non-receipt of response to notice *uls* 133(6) from the customer independent verification could not be made without disputing the fact that the amount had been deducted by the customer as evident from the copy of ledger account filed and the amount had also been written-off. It is submitted that the customer had deducted the amount of Rs.1,15,41,300/- on account of his claim of poor/inferior quality of goods supplied in view of which there was no question of return back of goods.

5.2 Ld. Counsel further submitted that the appellant had submitted that the customer had not been making any payment for almost two year due to a dispute raised by it for poor/inferior quality of the good supplied and the assessee company could realize its outstanding debt only on settlement of the claim of the customer for inferior quality of good. The acceptance of the claim of the customer was on account of business exigency. The assessee had written off the amount of Rs.1,15,41,300/- in its books of account and debited the amount to its profit & loss account.

6. The ld. Counsel for the assessee placed reliance on the decision of the Chennai Bench of the Tribunal in the case of *M/s. India Pistons Ltd. Vs. DCIT* in ITA. No. 1573/Chny/2019 dated 15.06.2022 and submitted that under similar circumstances the claim of write off of amounts in the nature of discount given to Govt. Undertakings was allowed by the Tribunal.

7. The ld. DR strongly placed reliance on the orders of the authorities below.

8. Heard rival submissions perused the orders of the authorities below and the decision relied on. The loss claimed by the assessee on account of inferior supply of goods was rejected by the Assessing Officer disbelieving that such goods rejected by the customer has some value. In the course of appeal proceedings the assessee produced copy of ledger accounts of the assessee in the books of the customers and also the communication sent by the customer to the assessee rejecting the goods supplied for the inferior quality. These evidences were disbelieved by the ld. CIT

(Appeals) for the reason that the customer of the assessee did not reply to the notice issued under section 133(6) of the Act by the Assessing Officer. It is the contention of the assessee that since there was dispute between the assessee and its customer the customer did not respond to the said notice. The customer had not been making any payment for almost two years on dispute raised by the assessee for poor/inferior quality of goods supplied and the assessee company could realize its out-standing debt only on settlement of the claim of the customer for inferior quality of goods. Therefore, it is the contention of the assessee that since there was dispute the customer did not respond to the notice issued by the Assessing Officer.

9. In our view simply because the customer of the assessee did not respond to notice under section 133(6) of the Act the mail sent by the customer to the assessee rejecting the goods worth Rs.1,15,41,300/- supplied for poor quality cannot be ignored and disbelieved only for the reason that the party did not respond to the notice issued by the Assessing Officer. At the same time the ledger account show that the assessee had written off in its books of accounts the loss suffered on account of quality of supply of inferior goods. The assessee has credited the customers account with the said amount and finally settled its accounts with the customer. All these goes to show that the assessee has incurred loss in the course of business. Therefore, the write off of debtors to the extent of Rs.1,15,41,300/- is nothing, but bad debt/business loss. Therefore, we are of the considered view that there is no justification in rejecting the claim of the assessee for write off of bad debts. Thus,

we set aside the order of the Id. CIT (Appeals) and allow the grounds raised by the assessee.

10. In the result appeal of the assessee is allowed.

Order pronounced in the open court on : 09/02/2023.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 09/02/2023.

MEHTA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (Appeals)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, DELHI /
DR, ITAT, DELHI
6. गार्ड फाइल / Guard file.

By order

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	07.02.2023
Date on which the typed draft is placed before the dictating Member	08.02.2023
Date on which the typed draft is placed before the Other Member	09.02.2023
Date on which the approved draft comes to the Sr. PS/PS	09.02.2023
Date on which the fair order is placed before the Dictating Member for pronouncement	09.02.2023
Date on which the fair order comes back to the Sr. PS/PS	09.02.2023
Date on which the final order is uploaded on the website of ITAT	09.02.2023
Date on which the file goes to the Bench Clerk	09.02.2023
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	