

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No.307/Ind/2020**  
**Assessment Year: 2013-14**

DCIT-3(1) Bhopal	<b>बनाम/ Vs.</b>	M/s Narmada Switchgear Pvt. Ltd., Plot No.3, Industrial Estate, Govindpura Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
<b>PAN: AABCN0635N</b>		
Assessee by	Shri S.S. Deshpande, CA	
Revenue by	Shri P.K. Mishra, CIT-DR	
Date of Hearing	09.11.2022	
Date of Pronouncement	03.02.2023	

**आदेश/O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by appeal-order dated 31.08.2020 passed by learned Commissioner of Income-Tax (Appeals)-2, Bhopal[“**Ld. CIT(A)**”], which in turn arises out of assessment-order dated 04.03.2016 passed by learned DCIT/ACIT-3(1), Bhopal[“**Ld. AO**”] u/s 143(3) of Income-tax Act, 1961 [“**the Act**”] for Assessment-Year[“**AY**”] 2013-14, the revenue has filed this appeal on following grounds:

- “1. Whether in the facts and in the circumstances of the case, the Ld. CIT(A) is justified in deleting addition of Rs. 2,81,93,202/- on account of various

*expenses whereas the AO has clearly pointed out the discrepancies w.r.t. expenses in the assessment order.*

2. *Whether in the facts and in the circumstances of the case, the Ld. CIT(A) is justified in deleting addition of Rs. 80,29,776/- on account of bad debt written off, without examining facts and findings of AO and relied upon various judgement.*
3. *Whether in the facts and in the circumstances of the case, the Ld. CIT(A) is justified in deleting addition of Rs. 55,45,006/- on account of bogus creditor without examining the facts and findings of AO mentioned in the assessment order.”*

2. Heard the learned Representatives of both sides at length and case-records perused.

3. The registry has informed that that the present appeal is filed after a delay of 12 days and therefore time-barred. The Ld. DR prayed that the delay has occurred due to Covid-19 Pandemic. The Ld. DR further placed reliance on the order of Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020 read with Misc. Applications**, by which suo motu extension of the limitation-period for filing of appeals w.e.f. 15.03.2020 under all laws has been granted and hence there is no delay in fact. We confronted the Ld. AR who agreed to the submission of Ld. DR. In view of this, the appeal is proceeded with for hearing, there being no delay.

4. Briefly stated the facts are such that the assessee-company filed return of relevant AY 2013-14 declaring a total income of Rs. 3,60,95,710/- on 27.09.2013 which was subjected to scrutiny-assessment and statutory

notices u/s 143(2)/142(1) were issued from time to time which were duly complied with. Finally, the Ld. AO completed assessment u/s 143(3) at a total income of Rs. 8,15,86,820/- after making certain additions. Aggrieved, the assessee went in first-appeal and got part-relief. Now the revenue, being aggrieved by the order of first-appeal, has come in this appeal before us.

**Ground No. 1:**

5. This ground relates to the disallowance of Rs. 2,81,93,202/- out of various expenses.

6. The Ld. AO has made disallowance vide Para No. 5 of assessment order which is re-produced below:

5. On perusal of audited final accounts, it was found that the assessee has debited following expenses in Profit & Loss Account. The assessee has shown expenses on very higher side as compared to previous year. Few instances of such expenses and its increase in current year is as under :

Head of Expenditure	Current Year	Previous Year	Increase	Percentage Increase (%)
Subcontracting :-	41111257	1603424	39507833	2564%
• Labour Expenses	8591469	Bifurcation not provided for A. Y. 2012-13		2564%
• Fabrication	15778310	--do--		
• Machine Charges	822966	--do--		
• Painting	3950000	--do--		
• Testing Payment	11794000	--do--		
Consumption & Store and Spare Parts	10225290	5329101	4896189	92%

Salaries & wages	21190438	6691476	14498962	316%
Electricity Bills/Power & Fuel	2093955	630720	1463235	232 %
Building Repair & Maintt.	1438102	71233	1366869	1919 %
Repair & Maintt.- Machinery	919536	370239	549297	148 %
Travelling & Conveyance	2505715	721468	1784247	247 %
Packing Expenses	5701398	409481	5291917	1292 %
Freight & Forwarding	2148894	1762513	386381	122%
Business Promotion	4361530	503787	3857743	766 %
Miscellaneous Expenses	1579882	932699	647183	69 %
Sales Commission	15000000	0	15000000	Infinite
Staff Welfare	11006025	200519	10805506	5389 %
Audit Fees	227659	19303	208356	1080 %
Business Promotion	4361530	503787	3857743	766 %
Rates & Taxes	14122522	1903016	12219506	642 %
Other Repair & Maintt.	208367	52697	155670	295 %

Vide order sheet entry dated 06.11.2015, the assessee was asked to produce all bills and vouchers of said expenditure. The AR of the assessee produced the asked bills/vouchers for verification. On perusal of bill and vouchers following discrepancies were observed:

- (1) On perusal of details furnished in respect of 'sub contracting expenses' it is seen that almost all the payments/expenditure under the above head pertain to sister concerns of the assessee-company i.e. Narmada Transmission Pvt. Ltd., Narmada Vehicles Pvt. Ltd. & Narmada Equipment Pvt. Ltd. It is further noticed that:

- The assessee-company could not conclusively prove the 'reasonability' of above expenses with reference to market rates.
- No details were furnished in respect of 'work done' by sister-concerns.

- Necessity of expenditure under the above head with reference to production/sales of the assessee-company could not be established.
- Further, the major income shown by Narmada Vehicle Pvt. Ltd. is from labour i.e. Rs.88,23,950/- while income from sale of vehicle is only Rs.10,70,795/- only which is not match with the nature of business of the M/s Narmada Vehicle Pvt. Ltd. All the labour work assigned by assessee company.
- The assessee made to payment of Rs.3,83,56,450/- to sister concerns. Simply deducting TDS on these payments does not itself prove that the expenses are genuine and exclusively for business purposes. Further, there are lot of discrepancies in the bills and vouchers maintained. It is also pertinent to mention that **the assessee debited an amount of Rs.16,03,424/- in preceding year for sub-contracting while in A.Y.2013-14, the assessee shown a huge expenses of Rs.4,11,11,257/- which is almost 2564 % higher in comparison to previous year.** The assessee failed to substantiate its claim for such a massive expenses under this head. Details of such discrepancies are as under :

- (i) In regard to Labour Expenses, it is pointed out that most of the bills pertain to sister concern i.e. M/s Narmada Transmission Pvt. Ltd. Most of the bills & vouchers are self made on pre-printed quarter sheet voucher pad and hence, not fully verifiable.

- (ii) Fabrication expenses – Some vouchers are not available on record. Most of the bills & vouchers are self made on pre-printed quarter sheet voucher pad and pertain to sister concerns i.e. M/s Narmada Vehicles Pvt. Ltd. & Narmada Equipment Pvt. Ltd. From the perusal of audit report it is clear that assessee co. also do fabrication work. Why all the work subcontracted to sister concerns. This is not clarified by assessee.
- (iii) Machine Charges – Most of the bills & vouchers are self made on pre-printed quarter sheet voucher pad. No specific details provided by the assessee. Most of the vouchers are very fresh as prepared only just before producing them.
- (iv) Painting Expenses – All payments made to sister concern i.e. M/s Narmada Vehicles Pvt. Ltd. All the bills & vouchers are self made on pre-printed quarter sheet voucher pad. Huge expenses amounting to Rs.39,50,000/- made during the year under this head but no specific details provided.
- (v) Testing Payments – All payments of Rs.2,41,50,000/- given to sister concern M/s Narmada Transmission Pvt. Ltd. All the bills and vouchers are self made on pre-printed quarter sheet voucher pad. This is new expense introduced in this assessment year only. Assessee failed to prove genuineness of this expense. Again mere deduction of TDS can not establish the conclusion of genuineness of this expense.
- (2) Electricity Bills (Power & Fuels) – Expenditure under this head do not exclusively pertain to the assessee company. It is seen that all electricity bill available on record related to M/s Narmada Transmission Pvt. Ltd. for specimen scanned copy of one of the electricity bill is attached herewith.

Most of the bills are related to Narmada Transmission Pvt. Ltd. which is separate entity and having separate business (PAN AABCN0638B). It is also noteworthy that Narmada Transmission Pvt. Ltd. also claiming electricity expenses separately. In view of the above discrepancy, expenses booked under the above head cannot be considered to be incurred 'wholly & exclusively' for the business purpose of the assessee-company.

- (3) Machinery Payment expenses – Some of the bills related to S.K. Mishra were self made. 3<sup>rd</sup> party verification is not possible.
- (4) Travelling & Conveyance – Most of the payments made in cash. No log book or travel record maintained by assessee. Business purposes of foreign travels are not substantiated by assessee / AR. No details regarding foreign travels were produced during the assessment proceedings who travelled and the purpose of travel etc details not furnished. It is also seen that most of the payments made in CASH. Since during assessment proceeding AR was not able to produce any of the details regarding foreign travels expenses except expenses amount hence exclusive business purpose of these expenses cannot be established. Personal use of these expenses also cannot be ruled out.
- (5) Packing expenses – Bills and vouchers amounting to Rs.46,58,000/- are related to sister concern out of Rs 5701398. Most of the bills and vouchers are self made hence not fully verifiable. It is also pertinent to mention that there is a massive increase (1292%) in this expense in compare to previous year while increase in turnover is only(326%).
- (6) Freight & forwarding Expenses – Bills above Rs. 20,000/- produced, bills below Rs.20,000/- are not produced. Since in the absence of complete details and vouchers assessee failed to substantiate his claim for this expense.

- (7) Business Promotion Expenses – Most of the payments paid are below Rs.20,000/-. Some of the bills and vouchers are not produced during verification. . Since in the absence of complete details and vouchers assessee failed to substantiate his claim for this expense. **Payment made in cash above Rs.20,000/- to Raja total amounting to Rs.74,900/-(35,000 on 20.11.2012 & 39,900).**
- (8) Building Repair & Maintenance – Some of the payments are made in cash. It is found that payment in cash to Shri Raju in one day (on 07.01.2013) of Rs. 24,300 (1033 + 14000). Further, on 31.01.2013 Rs. 22025/- (12875 + 9150) also paid in cash.
- (9) Sales Commission:- This expense is also introduced first time. Assessee debited Rs. 15000000 towards this expense. No logical details and direct nexus for business purpose of this expense is provided and proved by the assessee. Again it is pertinent to mention that just because deduction of TDS assessee can not establish this fact that this expense is genuine and used for wholly and exclusively for business purpose. That is too that assessee failed to produce complete details of this expense.
- (10) Staff welfare :- Assessee debited very large amount of Rs. 11006025 in A.Y. 2013-14 while same was only Rs 200519 in previous year. There is a quantum increase of 5388% in this head while increase in turnover in year under consideration is only 326%.Further assessee failed to produce complete details of this expense. Again most of the vouchers self made hence not fully verifiable. Details of employees / staff not produced by assessee. Details of EPF and ESIC of employees and details of deposition of employee and employer contribution of same are not produced. It is very much noteworthy that one side assessee debited 5388% more under staff welfare in comparison to previous year and another side

assessee also subcontracted work to sister concerns of Rs 4,11,11,257/-. This is also 2564 % higher in comparison to previous years Rs 16,03,424/- and also includes more than 80% of labour work. That is too only and only through self made vouchers which are not verifiable Again it is pertinent to mention that assessee also debited a huge expense of Rs. 2,11,90,438/- towards 'Salaries & wages' it is also not fully verifiable with regard to facts and findings of various above stated points it is certain that genuineness remained unproved of such expenses. Hence amount debited under staff welfare head is not at all acceptable and seems many folds and extremely inflated.

- (11) Salaries & Wages:- During year under consideration it is seen that assessee has debited a huge expense of Rs. 2,11,90,438/- towards 'salaries & wages'.

The vouchers pertaining to 'wages' are made on pre printed voucher pad. Place of work, number of persons engaged for work, period and description of work was not found mentioned in these vouchers. These vouchers were not found recorded in labour/wages register. Further, payment of all such vouchers was made in cash. Same type of discrepancies found in salaries paid in which substantial part of payment made in cash. Point No. 10 (regarding staff welfare) is also pertinent to mention here. In light of various findings genuineness remained unproved of such expenses.

**\*It is seen that the assessee has filed E-TDS return in form No. 26Q for the F.Y. 2012-13 as under:-**

	Original Return filed on	Later Revised E-TDS Return	II <sup>nd</sup> Revised E-TDS Return	III <sup>rd</sup> Revised E-TDS Return
26Q1	09.08.2012	08.10.2012	04.06.2013	30.09.2013
26Q2	15.10.2012	04.06.2013	04.06.2013	30.09.2013
26Q3	29.01.2013	04.06.2013	30.09.2013	
26Q4	15.05.2013	04.06.2013	30.09.2013	

Repeated filing of revised return of e-TDS clearly leads to conclusion that assessee has been booking further expenses and deducting TDS thereon to reduce overall profitability / income. It is seen that on the last date of filing of return i.e. 30.09.2013, the assessee has further deposited TDS totaling to Rs. 5,62,253/- and claimed expenses thereon to the tune of Rs. 2,84,62,650/-. Further, most of these TDS has been deducted on account of payments / subcontract expense to sister / associate concerns. The assessee has regularly filed original e-TDS return on due dates and subsequent revisions thereon only lead to belief that in order to inflate / book higher expenses, TDS has been deducted thereon so as to justify its allowablity. But this action of revising e-TDS returns (26Q) regularly specially after the year end i.e. on 04.06.2013 and later on 30.09.2013 (i.e. last date of filing of return) proves the above contention. It is not understandable that if the assessee is regular in deducting & depositing TDS as shown in original return, why subsequently large amount of TDS to the extent of 41% of total TDS is deposited late i.e. after the year end (26Q). It is also pertinent to mention that assessee TDS deposited for the fourth quarter for salary in 24Q is more than 92.7% of total TDS (Rs. 26,63,612/- out of total TDS of Rs. 28,70,612/-) deposited in 24Q. That is too after year end on 15.05.2013. If salaries paid during the year on monthly basis why a huge amount of TDS almost 92.7% deposited on fourth quarter only. This also indicates accommodation entry / booking of huge expense to suppress profit.

Scanned copy of statement of TDS returns for the all four quarters attached herewith.

**M/s Narmada Switchgear Pvt. Ltd.**

Statement of TDS Returns  
 24Q F.Y 2012-13

Period	Date	Total Challan Amount	Total Tax Deducted
Qtr.1st	07/08/2012	69000	69000
Qtr.2nd	15/10/2012	69000	69000
Qtr.3rd	29/01/2013	69000	69000
Qtr.4th	15/05/2013	2663612	2663612
<b>Total</b>		<b>2870612</b>	<b>2870612</b>

26Q F.Y 2012-13

Period	Date	Total Challan Amount	Total Tax Deducted
Qtr.1st	09/08/2012	46135	45719
Qtr.2nd	15/10/2012	217296	127079
Qtr.3rd	29/01/2013	290777	285873
Qtr.4th	15/05/2013	1756535	1755582
<b>Total</b>		<b>2310743</b>	<b>2214253</b>

Revised Return 26Q F.Y 2012-13

Period	Date	Total Challan Amount	Total Tax Deducted
Qtr.1st	08/10/2012	218296	83795
Qtr.1st	04/06/2013	265334	22980
Qtr.2nd	04/06/2013	268208	66460
Qtr.2nd	04/06/2013	26599	3700
Qtr.3rd	04/06/2013	262367	88100
Qtr.4th	04/06/2013	261716	82880
Qtr.1st	30/09/2013	25602	20558
Qtr.2nd	30/09/2013	95750	80566
Qtr.3rd	30/09/2013	109871	91027
Qtr.4th	30/09/2013	405823	377102
<b>Total</b>		<b>1721270</b>	<b>917168</b>

Scanned copy of statement of TDS returns for the all four quarters 24Q & 26Q

This action of regularly filing revised e-TDS return subsequently by the assessee and that too pertaining to e-TDS on payments / expenses booked mostly pertaining to sister / associate concerns leads to clear cut inference that huge expenses are being booked to suppress profitability / income by the assessee company doubting genuineness of the claim of these subcontractor expenses.

In view of the above findings, it is very clear that the assessee has not properly substantiated its claim of expenditure with documentary evidence, bills & vouchers etc. Further, the assessee has shown expenses on very higher side as compared to previous year. It is also very much amazing that most of the expenses were paid to sister concern that is too by self made bills & vouchers. Almost all of the vouchers are in same hand writing and stereotype. It is pertinent to mention that vouchers which were produced for verification during the assessment proceeding, seems very fresh and newly created. Scanned copy of such vouchers (specimen) is attached herewith.

**NARMADA SWITCHGEAR PVT. LTD. BHOPAL**  
**TRANSFER VOUCHER**

Date: 21.3.13

PARTICULARS	DR. AMOUNT		CR. AMOUNT	
	Rs.	P.	Rs.	P.
Debit Fabrication Expenses	1151.00	-		
To Narmada Vehicle Pvt. Ltd.			1151.00	-
Invoice 22 For Laboring and Inspection	1151.00	-	1151.00	-

Accountant Director / Secretary

Thus, having regard to possible leakage of revenue on this count disallowance out of above heads of expenditure is tabulated hereunder:

S.No.	Head of expenditure	Total amount debited in P&L account [Rs.]	Percentage of disallowance	Amount disallowed [Rs.]
	Head of Expenditure	A.Y. 2013-14		
	<b>Subcontracting :-</b>	<b>41111257</b>		
	• Labour Expenses	8591469	20%	1718293
	• Fabrication	15778310	20%	3155662
	• Machine Charges	822966	20%	164593
	• Painting	3950000	20%	790000
	• Testing Payment	11794000	20%	2358800
	Consumption & Store and Spare Parts	10225290	20%	2045058
	Electricity Bills/Power & Fuel	2093955	50%	1046978
	Building Repair & Maintt.	1438102	20%	287620
	Repair & Maintt.- Machinery	919536	20%	183907
	Travelling & Conveyance	2505715	20%	501143
	Packing Expenses	5701398	20%	1140279
	Freight & Forwarding	2148894	20%	429778
	Business Promotion	4361530	20%	872306
	Miscellaneous Expenses	1579882	20%	315976
	Salaries & wages	21190438	20%	4238087
	Staff Welfare	11006025	50%	5503012
	Other Repair & Maintt.	208367	20%	41673
	Prior period expenses	400037	100%	400037
	Sales Commission expense	15000000	20%	3000000
	<b>Total</b>			<b>28193202</b>

In view of above, sum totaling to Rs. 2,81,93,202/- is disallowed out of expenses tabulated above and the same is added to the total income of the assessee. ✓

7. During first-appeal, the Ld. CIT(A) deleted disallowance by observing and holding thus:

**“Ground No.2:**

**“That the Ld. A.O. was not justified in making an addition of Rs. 2,81,93,202/- on the ground “having regard to possible leakage of revenue on this count disallowance out of the above heads of expenditure is tabulated hereunder .....”, in view of the books of account produced and all the supporting documents therewith and the Ld. A.O. having made filed enquiries he ought to have passed a speaking order stating the reason for each disallowance and**

**examining it in the light of the evidence and explanation offered by the Assessee."**

5. During assessment proceedings, the Ld. A.O. found that the appellant had incurred expenditure under head 'Sub-contracting' at Rs. 4,11,11,257/- which was increased by 2564% in comparison to previous year. The Ld. A.O. found that most of the payment were made to the sister concerns i.e. Narmada Transmission Pvt. Ltd., Narmada Vehicles Pvt. Ltd., Narmada Equipment Pvt. Ltd. The Ld. A.O. has mentioned that reasonability of the above expenses could not be explained by the appellant and no details relating to work done by the sister concerns were furnished. The Ld. A.O. further found that major income shown by Narmada Vehicles Pvt. Ltd. was from labour i.e. Rs. 88,23,950/- whereas income from sale of vehicles was at Rs. 10,70,795/- only. This was not matching with the nature of business of that concern. The Ld. A.O. has found that payment made to M/s. Narmada Transmission Pvt. Ltd. through self-made vouchers and the same were not fully verifiable. Expenses-wise discussion has also been made by the Ld. A.O. in the assessment order. The Ld. A.O. further found that the bills for electricity were in the name of M/ s. Narmada Transmission Pvt. Ltd. whereas the appellant had claimed such expenses. The Ld. A.O. has mentioned in the assessment order that various payments have been made through self-made vouchers and some of the payments have been made in cash also. Sales commission of Rs. 1,50,00,000/- was debited in this year which was not in the previous year. The Ld. A.O. has also discussed about the filing of TDS returns which were revised again and again. On the basis of the same the Ld. A.O. concluded that the appellant had been booking further expenses and deducting TDS thereon to reduce the taxable income. Almost all the expenses vouchers were found made in the same handwriting. Considering the various findings mentioned in the assessment order the Ld. A.O. made the addition in following manner:

S.No	Head of expenditure	Total amount debited in P&L account (Rs.)	Percentage of disallowance	Amount disallowed (Rs.)
	Head of Expenditure	A.Y. 2013-14		
	Subcontracting	41111257		
	• Labour Expenses	8591469	20%	1718293
	• Fabrication	15778310	20%	3155662
	• Machine Charges	822966	20%	164593
	• Painting	3950000	20%	790000
	• Testing Payment	11794000	20%	2358800
	Consumption & Store and Spare Parts	10225290	20%	2045058
	Electricity Bills/Power & Fuel	2093955	50%	1046978
	Building Repair & Maintt.	1438102	20%	287620
	Repair & Maintt. Machinery	919536	20%	183907
	Travelling & Conveyance	2505715	20%	501143
	Packing Expenses	5701398	20%	1140279
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	Miscellaneous Expenses	1579882	20%	315976
	Salaries & wages	21190438	20%	4238087
	Staff Welfare	11006025	50%	5503012
	Other Repair & Maintt.	208367	20%	41673
	Prior period expenses.	400037	100%	400037
	Sales Commission expenses	15000000	20%	3000000
			<b>Total</b>	<b>28193202</b>

Accordingly, the Ld. A.O. considering the possible leakage of revenue added amount of Rs. 2,81,93,202/- to the total income of the appellant.

5.1 The appellant submitted that the Ld. A.O. has compared the percentage increase in expenses with the previous year. This is not correct method. It should be compared in relation to sales. It was explained to the Ld. A.O. that the appellant had been passing through a lean phase in past few years and owing to the development of specialized product, the business has been revived and business was increased. In this regard, the appellant submitted comparative statement of income for the current year and the earlier year. The chart is reproduced here under:

Items	2012-13	2011-12	2010-11	2009-10
Transformer tanks	2310.37	320.45	0.00	-1.40
Valve tanks	55.44	13.47	13.97	7.80
Cubicles	0.00	27.25	7.50	

Shunt Assy./Misc	0.00	0.00	16.80	5.24
Oil Tanks	2.89	0.00	0.00	
Busduct & Spares	23.45	158.99	70.64	101.11
	2392.15	520.16	108.91	112.75
Services				
Installation/commissioning of Busducts	12.16	0.00	0.00	5.00
Job work	10.12.	22.23	35.73	46.92
	22.28	22.23	35.73	51.92
Others				
Packing/forwarding/freight	2.11	9.57	5.29	3.44
	2416.54	551.96	149.93	168.11
Taxes	135.12	35.32	11.97	21.47
	2551.66	587.28	161.90	189.58

*The appellant submitted that there is phenomenal increase in business. That is why the expenses have been increased. The Ld. A.O. has only considered the expenditure side and ignored the revenue side. In earlier year the income comprised mostly of income from job work and sale of busducts. The two periods are therefore, un-comparable. The complete details of expenses and reason were furnished during the assessment proceedings particularly in respect of sister concerns. The product manufactured by the appellant required highly technical skills and specialized machine. All the sister concerns are specialized in manufacturing of engineering goods for the use of large PSUs in power generation and distribution activities. Narmada Vehicles Pvt. Ltd., earlier dealing with sale of Hyundai Cars has specialization in painting of machine and skilled labour. All the facts have been explained to the Ld. A.O. the appellant got the job work done through sub-contracting which was in the interest of the business. No provision under the Act prohibits the conduct of business through sister concerns. It is outside the scope of the A.O. to judge the necessity or otherwise of an expense incurred in relation to the business. In relation to the comments of the Ld. A.O. that the vouchers were self-made, pre-printed quarter sheet etc., the appellant submitted that when the number of attachments i.e. supporting bills in a single transaction is large, a docket being a summery sheet of all expenses is used. Complete details had been submitted during assessment proceedings. There is only one accountant, all the vouchers has been made in his handwriting. Therefore, on the basis of handwriting genuineness of expenses cannot be doubted. All the expenses are verifiable and thus, the Ld. A.O. is not correct in his findings. The Ld. A.O. has not pointed out any single instance as to which voucher was not available or non-genuine. Nature of all expenses has been explained during the assessment proceedings. The appellant also furnished the detailed reply*

*furnished before the Ld. A.O. Regarding electricity bill the appellant submitted that it was in the name of M/s. Narmada Transmission Pvt. Ltd. and the Ld. A.O. has mentioned that the appellant and the said company both have claimed this expense. The appellant and M/s. Narmada Transmission Pvt. Ltd. are located on adjoining plot of land. MPEB has allotted electricity connection through a single transformer. An agreement had been executed with MPEB. The same was also given during assessment proceedings. The name of the appellant is mentioned in the said agreement. Thus, there is no doubt left that the electricity connection is not in the name of the appellant. The bills have been made by the MPEB only in the name of the person first mentioned in the agreement which is a technical matter. The appellant has bifurcated the bill amount to be paid by each unit as per power usage. On perusal of attached charge it will be clear that there is not double claim of electricity expense. The Ld. A.O. ignored these facts. In past assessment years there is no adverse finding on this issue. The Ld. A.O. has not made any enquiry in respect of any of the expenditure claimed. Similarly, entire details alongwith explanation was furnished during the assessment proceedings in respect of travelling and conveyance expenses. All expenses have been incurred in relation to business of the appellant. The foreign visits have been supported by proper communication with the foreign supplier of aluminum.*

*Regarding packing expenses the appellant submitted that the product of the appellant is a highly technically product and hence, requires special packing skills and material. The increasing these expenses were due to abnormal increase in turnover. Regarding business promotion expenses a general remark has been given by the Ld. A.O. and no specific defect has been pointed out. This was the first year of appellant's new business, therefore, commission has been paid under an agreement with an agency. Appointment of agent for securing business is very much permitted. The Ld. A.O. has not made any enquiry to examine the genuineness of the expenditure. All payments have been made through banking channels and due consideration of TDS and Service Tax has been given. No enquiry in this regard has been conducted during the assessment proceedings. The appellant has large number of employees. The staff welfare expense includes canteen expenses, ESI expenses, Uniform to staff, ICICI Prudential Policy for the workers (premium paid was Rs. 1,00,00,000/-). The prudential policy was introduced for the first time. Therefore, there is no justifiable reasons to disallow such expenses. Similarly, no defect pointed out in relation to salaries and wages expenses and other expenses also. Regarding prior period expenses of Rs. 4,00,037/- the appellant submitted that it was explained with documentary evidence that these are incurred for the business purpose and have now been written off. There were some credit balances and the same are written off. The major amount pertained to Commercial Tax Department. Such expenses has wrongly referred to as prior period expense in the Profit & Loss account. The TDS returns have been revised because due to some practical reason. The returns were filed on time to avoid penalty even if some details were not available at the time of filing of TDS return. It is submitted that all the expenditure has been incurred in commercial expediency. The appellant has placed reliance upon the decision of Hon'ble Apex Courts in the case of Hero Cycle Pvt. Ltd. 63 Taxmann.com 308 and S.A. Builders 288 ITR 1. In view of the above submissions the appellant submitted that the addition made may be deleted.*

5.2 I have considered the facts of the case, findings of the Ld. AO. and submission of the appellant. The Ld. AO has disallowed 20% of Rs. 4,11,11,257/- being sub-contract expense. The Ld. A.O. has observed that this expenditure has been increased by 2564% in comparison to previous year. I find that while making this observation the Ld. A.O. ignored the facts that the turnover of the appellant company had been increased to Rs. 2551.66 lakhs from Rs. 587.28 lakhs. Percentage increase is 334.49% which is very substantial. During the assessment proceedings, the Ld. A.O. has made some observations which are not based upon specific defects in the books of account of the appellant but these are general in nature. The appellant has submitted detail submissions in the assessment proceedings as well as in the appellate proceedings. I find that the Ld. AO. has not proved that expenses in question are not incurred in connection with any commercial expediency and the expenses claimed are not allowable as per the provisions of section 37 of the Act. The payments to sister concerns have been made due to their specialized business activities of manufacturing. The appellant has given some work as sub-contract to them. Without making any enquiry, the Ld. A.O. concluded that the part of expenses are not genuine and disallowed 20% of such expenses to prevent some leakage of revenue. The findings in the assessment order are not based upon actual facts but these are based upon general observations. I agree with the material facts brought on record before me through written/submissions by the appellant which has been summarized in para 5.1 above. Further, before disallowing part of sales commission etc. enquiry should have been made to prove it non-genuine or otherwise. The staff welfare expenses include ESI payment, ICICI Prudential Policy (Rs. 1,00,00,000/-) etc. it is not understandable that how can be 20% of the same disallowed. I have found that the disallowance of 20% has been made on account of electricity expenses which is not based upon correct facts. Electricity connection is in the name of M/s Narmada Transmission Pvt. Ltd. The appellant and Mis. Narmada Transmission Pvt. Ltd. are located on adjoining plot of land. MPEB has allotted electricity connection through a single transformer. An agreement had been executed with MPEB. The same had also been given during assessment proceedings. The name of the appellant is mentioned in the said agreement. Thus, there is no doubt left that the electricity connection is not in the name of the appellant. The bills have been made by the MPEB only in the name of the person first mentioned in the agreement which is a technical matter. The appellant has bifurcated the bill amount to be paid by each unit as per power usage. I have found that there is not double claim of electricity expense. The Ld. A.O. ignored these facts. In past assessment years there is no adverse finding on this issue. Further, the appellant has also made TDS and paid service tax where-ever it was necessary. The genuineness of expenditure incurred under the head sub-contracting cannot be doubted on the basis of some observation. There has to be some cogent evidences in this regard. In view of the above and decision of Hon'ble Apex Court in the case of Hero Cycles Pvt. Ltd. (supra) and S. A. Builders (supra), the appellant has succeeded in proving the expenses are allowable as per the provisions of section 37 of the Act. Therefore, the addition made by the Ld. AO cannot be sustained and the same is hereby deleted. This ground of appeal is allowed.”

8. Before us, the Ld. DR vehemently supported the assessment-order. He also pleaded that the Ld. CIT(A) has reversed the action of Ld. AO by holding that the increase in expenditure was on account of increase in turnover achieved by assessee, but that was not the sole reason, there were several other reasons mentioned by Ld. AO justifying the disallowance. Drawing our attention to assessment-order, Ld. DR submitted that the Ld. AO has discussed each item of disallowance and given reasoning too; therefore the disallowance made by Ld. AO is well-reasoned. Arguing this strongly, the Ld. DR lastly submitted that some disallowance was certainly justified in the present case.

9. Ld. AR representing the assessee has submitted a Written-Synopsis whose Page No. 3 to 16 deal with this ground. The pleadings made by Ld. AR in this synopsis are broadly on the same line of reasoning as adopted by Ld. CIT(A) in first-appeal order reproduced above. Ld. AR also submitted that during assessment-proceeding, the assessee filed details/documents of all expenses to Ld. AO and in this regard, Ld. AR drew our attention to the copies of those details/documents placed at Page No. 99 to 200 of the Paper-Book. Then, the Ld. AR also carried us to the assessment-order and submitted that the Ld. AO has simply made a mathematical comparison of the quantum of expenses in current year vis-à-vis preceding year and resorted to lump-sum disallowance on self-assumed % basis and that too without looking into the fact that there was hefty increase in sales/revenue side. Ld. AR submitted that the assessee's revenue had increased phenomenally from 587.28 to 2551.66 and that is why there was corresponding increase in the quantum of expenses. Ld. AR also submitted that the disallowance has been made on lump-sum % basis, which again is baseless as well as without authority of law. Ld. AR submitted that the Ld. CIT(A) has rightly made a detailed analysis of the facts and figures of each and every item of disallowance and thereby deleted the disallowance wrongly made by Ld. AO; hence the action of Ld. CIT(A) is very much correct and must be upheld.

10. We have considered rival contentions of both sides and perused the material held on record including the orders of lower authorities. We note that the assessee is a company and its accounts are duly audited in terms of statutory provisions. Going forward to the assessment-order, we observe that the first sentence of Para No. 5 of the assessment-order, which deals this issue, clearly reveals that the Ld. AO observed *“On perusal of audited final accounts, it was found that the assessee has debited following expenses in Profit & Loss Account. The assessee has shown expenses on very higher side as compared to previous year.”* Then, the Ld. AO made a mathematical comparison of various items of expenses in the current year and immediately preceding year and ascertained mathematical-increase in % terms. Similarly, in the concluding para too, the Ld. AO has mentioned *“Further, the assessee has shown expenses on very higher side as compared to previous year.”* Thus, it is clearly visible that the Ld. AR was prompted to make disallowance based on mathematical-increase in the quantum of expenses. In fact, the Ld. DR also accepted this but dutifully attempted to contradict by submitting that there are other reasons noted by Ld. AO as well. Taking into account such submission of Ld. DR, we analysed the assessment-order and observed that Ld. AO has made general observations like *“most of the vouchers”, “some of the bills and vouchers”, “massive increase”*. Regarding payments made to sister concerns, namely M/s Narmada Transmission Pvt. Ltd., Narmada Vehicles Pvt. Ltd. and Narmada Equipment Pvt. Ltd, the Ld. AO has nowhere applied section 40A(2) which is a statutory provision and which requires comparison of *“actual payment”* with *“fair market value”* of the goods/services supplied by sister concern; rather the Ld. AO has just made a lump sum disallowance of 20% which is totally baseless and against the statutory mandate of section 40A(2). At some places, the Ld. AO has made lump-sum % disallowance on the premise of *“cash-payment”* but not applied the statutory provision of section 40A(3) which, if applicable, would have attracted 100% disallowance and if not applicable, then no disallowance ought to have been made. Thus, the

disallowance made by Ld. AO on the footing of “cash payment” is also not legal. Then the observation made by Ld. AO that most of the vouchers are self-made vouchers, is also far from truth. Ld. AO has scanned such a self-made voucher on Page No. 14 of the assessment-order (which is reproduced in our earlier paragraph too). A perusal of voucher indicates that there is a clear mention of “Inv. No. 28” in the narration part. Thus, the voucher scanned in the assessment-order is simply a covering-voucher of the assessee but there is “Invoice No. 28” too for which the payment has been made. Thus, there is a “invoice” for the “cover-voucher” but the Ld. AO has overlooked this and made a general observation that the payments have been made on self-made vouchers. It is true that the Ld. AO has discussed each item of disallowance, but the discussion is general and there is no mention as to which voucher was not available or ingenuine. We observe that the Ld. AO has made 100% disallowance out of prior-period expenses; 50% disallowance out of electricity/power and staff welfare; and 20% disallowance out of several other expenses, which is lump-sum / adhoc and not concrete. On the other hand, the Ld. CIT(A) has (i) considered the findings made by Ld. AO at length; (ii) noted that there was a phenomenal increase in sale/revenue as also change in business-model of assessee, therefore the preceding year was un-comparable; (iii) elaborately analysed each item of disallowance one by one. Thereafter, the Ld. CIT(A) has deleted the disallowances made by Ld. AO. Regarding 100% disallowance of “prior-period expenses”, the Ld. CIT(A) has given a categorical finding on Page No. 8 of the appeal-order *“Regarding prior period expenses of Rs. 4,00,037/- the appellant submitted that it was explained with documentary evidence that these are incurred for the business purpose and have now been written off. There were some credit balances and the same are written off. The major amount pertained to Commercial Tax Department. Such expenses has wrongly referred to as prior period expense in the Profit & Loss account.”* Since the Ld. CIT(A) has already discussed all items one by one, any discussion by us would only result in repetition of the same. Hence, for the sake of brevity, we

refrain from repetitive discussion. Suffice only to say that the Ld. CIT(A) has passed a well-reasoned order and we do not find any infirmity therein. Therefore, we are inclined to countenance the action of Ld. CIT(A). This ground of revenue is, therefore, dismissed.

**Ground No. 2:**

11. This ground relates to the disallowance of Rs. 80,29,776/- out of bad-debt claim.

12. During assessment-proceeding, the Ld. AO observed that the assessee had debited a sum of Rs. 94,37,583/- to P&L A/c on account of bad-debts and simultaneously credited a recovery of Rs. 14,07,807/- to the P&L A/c; thus there was a net deduction of Rs. 80,29,776/- claimed by assessee. When the Ld. AO confronted the assessee about this claim, the assessee submitted complete ledger accounts of the debtors who were written off. However, the Ld. AO disallowed deduction mainly emphasizing that the assessee had not produced any documentary evidence to prove his efforts of recovery from the relevant debtors.

13. During first-appeal, the Ld. CIT(A) reversed the action of Ld. AO and allowed claim of assessee by observing and holding thus:

**“Ground no.4**

***That the Ld. AO is wrong in holding that the old debtors written off amounting to Rs.94,37,583/- were bogus, through it was proved before the AO that these were the result of Bills raised by the assessee by crediting the same to the income account in the past, and thereupon making an addition of Rs.80,29,776/- the Ld. AO ought to have considered the documentary evidence produced by the appellant, the Ld. AO has applied the judgment of Hon’ble Allahabad High Court in the case of Kohli Bros Colour Lab P. Ltd. When the facts and circumstances obtaining the instant case are different.”***

7. During the assessment proceedings, the Ld. AO found that a sum of Rs.94,37,583/- was debited to profit & Loss account under the Bad debts. The Ld. AO has mentioned that the appellant could not established the fact that revenue corresponding to the claim has been taken into consideration in determining taxable income for the relevant year or any earlier year. No documentary evidences furnished to prove the efforts made for recovery of debts. After considering amount of Rs. 14,07,807/-, the Ld. A.O. disallowed amount of Rs. 80,29,776/- and added to the total income.

7.1 The appellant submitted that the ledger account of various debtors were provided to the Ld. A.O. The debts have arisen on account of genuine trading transactions which meant that the corresponding revenue had already been recorded in the books of account. The detailed reply in this regard was furnished during the assessment proceedings. The debts arose in the ordinary course of business and the same had been credited to revenue account. The appellant has placed reliance upon the decision of Hon'ble Apex court in the case of **TRF Ltd.323 ITR 397**.

7.2 I have gone through the assessment order as well as the written submission of the appellant. The Ld. A.O. has made addition of Rs. 80,29,726/- on account of bad debts written off as the appellant failed to produce adequate information and evidence of efforts for recovery of bad debts. During the assessment proceedings as well as appellate proceedings the appellant furnished complete ledger account in respect of the issue involved. Considering the facts of the case, it has been found that debts have been arisen on account of genuine trading transactions of various years which have also been incorporated in the books of account. I am in agreement with the Ld. AR that the only condition for allowability of the bad debts u/s 36(1)(vii) of the Act is it must have been written off in the books of account by the assessee as bad. Hon'ble Apex court in the case of TRF Ltd. CA No. 5293/2003 has decided this issue as under:

*"In these appeals, we are concerned with assessment year 1990-1991 and assessment year 1993-1994 Prior to 1st April, 1989, every assessee had to establish, as a matter of fact, that the debt advanced by the assessee had, in fact, become irrecoverable. That position got altered by deletion of the word "established", which earlier existed in Section 36(1)(vii) of the Income Tax Act, 1961 [Act', for short].*

*For the sake of clarity, we re-produce herein below provisions of Section 36(1)(vii) of the Act, both prior to 1st April, 1989 and post-1st April, 1989:*

*"Pre- 1st April, 1989:*

*Other deductions.*

*36.(1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 2B--*

(i) to (vi) xxxx xxxx xxxx

(vii) subject to the provisions of sub-section (2), the amount of any debt, or part thereof, which is established to have become a bad debt in the previous year.

Post- 1st April, 1989:

Other deductions.

36.(1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28-

(i) to (vi) xxxx xxxx xxxx

(vii) subject to the provisions of sub-section (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the Previous Year"

This position in law is well-settled 'After" 1st April, 1989' it is not necessary for the assessee to establish that the debt, in fact, has become irrecoverable. It is enough if the bad debt is written off as irrecoverable in the accounts of the assessee.

However, in the present case, the Assessing Officer has not examined whether the debt has, in fact, been written off in accounts of the assessee. When bad debt occurs, the bad debt account is debited and the customer's account is credited, thus, closing the account to the customer. In the case of Companies, the provision is deducted from sundry Debtors. As stated above, the Assessing Officer has not examined whether, in fact, the bad debt or part thereof is written off in the accounts of the assessee. This exercise has not been undertaken by the Assessing Officer. Hence, the matter is remitted to the Assessing Officer for de novo consideration of the above-mentioned aspect only and that too only to the extent of the write off. Subject to above, the civil appeals filed by the assessee are disposed of with no order as to costs"

Thus, the Hon'ble Apex Court has heard that the law in this regard is well-settled. After 1st April, 1989, it is not necessary for the assessee to establish that the debt, in fact, has become irrecoverable. It is enough if the bad debt is written off as irrecoverable in the accounts of the assessee. Following the above decision of the Hon'ble Apex Court, I allow the expenses claimed under the head bad debts written off to the appellant as the same was arisen in the ordinary course of business and same has been written off as a matter of business commercial expediency. Hence, the addition of Rs. 80,29,776/- is hereby deleted. This ground of appeal is allowed."

14. Before us, Ld. DR supported the assessment-order, as against which the Ld. AR placed heavy reliance on the order of first-appeal. Ld. AR also placed reliance on Page No. 17 to 19 of his Written-Submission as also Page No. 201 to 224 of the Paper-Book where the copies of ledger accounts of various debtors, as filed during assessment-proceeding, are placed. Our attention is also drawn to Page 64 to 72 of the Paper-Book where the copies of letters dated 28.12.2015 and 18.01.2016 filed to Ld. AO during the course of assessment are filed in which the assessee had given a detailed submission on the bad-debt claim.

15. After a careful consideration of the rival contentions of both sides and the material held on record including the orders of lower authorities in the light of applicable provisions, we note that the Ld. CIT(A) has adequately considered the factual aspects as well as the provision of section 36(1)(vii) and the interpretation thereof taken by Hon'ble Supreme Court in the case of **TRF Ltd. CA No. 5293/2003**, according to which it is sufficient to write-off the bad debts in books of account and there is no need to establish the recovery-efforts after 01.04.1989. Being so, we do not find any infirmity in the order of Ld. CIT(A) which is well-reasoned. Hence, this ground of revenue is also dismissed.

**Ground No. 3:**

16. This ground relates to the addition of Rs. 55,45,006/- on account of bogus creditor.

17. The facts related to this issue lie in a very narrow compass i.e. the assessee declared a credit balance of Rs. 53,45,006/- payable to M/s Narmada Vehicles Pvt. Ltd. [**“NVPL”**]. During assessment-proceeding, the assessee filed copy of Ledger A/c, Audited Balance-Sheet and ITR of NPVL to prove the credit balance, but the Ld. AO downloaded the Balance-Sheet of NPVL from departmental database and observed that NPVL had declared trade-receivable of Rs. 37,46,728/- only as on 31.03.2013. Based thereon,

the Ld. AO framed an inference that the liability of Rs. 53,45,006/- declared by assessee to NPVL stood unproved from the Balance-Sheet of NPVL, hence made addition. During first-appeal, Ld. CIT(A) reversed the action of Ld. AO.

18. Before us, Ld. DR supported the assessment-order. Per contra, the Ld. AR relied upon the order of first-appeal and Page No. 19 to 20 of his Written-Submission. He further carried us to Page No. 198 to 200 of the Paper-Book where a copy of the 3-pages sheet is placed which gives complete details of credit-balance as well as debit-balances of various customers in the books of NPVL. Analysing the same, Ld. AR pointed out that NPVL has shown a Debit balance of Rs. 55,45,006/- receivable from assessee; several Debit balances receivable from other persons; and several Credit balances of other persons. Thus, the net effect of those Debit and Credit balances was Rs. 37,46,728/-, which NPVL declared in their Balance-Sheet. Ld. AR submitted that this 3-pages sheet, which was submitted to Ld. AO during assessment-proceeding, clearly shows a receivable of Rs. 55,45,006/- from assessee, but the Ld. AO had simply given importance to the downloaded Balance-Sheet of NPVL (which just showed net balance of Rs. 37,46,728/-) and did not give any importance to the complete details submitted by assessee.

19. We have considered rival submission of both sides and perused the material held on record including the orders of lower authorities. After a careful consideration, we observe that NPVL has shown a debit balance of Rs. 55,45,006/- receivable from assessee, which clearly proves the liability declared by the assessee as payable to NPVL and there is no difference. We observe that the Ld. AO has drawn conclusion against the assessee based on the audited balance-sheet of NPVL downloaded from departmental database, which does not give complete picture of debit and credit balances and just depict the final figure. Needless to elaborate further, we agree with the conclusion taken by Ld. CIT(A) whereby he has deleted the addition made by Ld. AO. Accordingly, this ground is also dismissed.

**20. Resultantly, this appeal of revenue is dismissed.**

<i>Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 03/02/2023.</i>
<i>Order pronounced in the open court on ...../...../2023.</i>

Sd/-

(CHANDRA MOHAN GARG)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक/Dated : 03.02.2023

Patel/Sr. PS

- Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*

1.	Date of taking dictation	
2.	Date of typing & draft order placed before the Dictating Member	
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the approved draft is placed before other Member	
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the file goes to the Bench Clerk	
7.	Date on which the file goes to the Head Clerk	
8.	Date on which the file goes to the Assistant Registrar for signature on the order	
9.	Date of dispatch of the Order	