

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : H : DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.5086/Del/2019
Assessment Year: 2014-15

Husk Power Systems Pvt. Ltd., 145A, GF, N Block, Greater Kailash, New Delhi.	Vs	DCIT, Circle-11(2), New Delhi.
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PAN: AACCH1699H

(Applicant)

(Respondent)

Assessee by	:	Shri Anand Suman, Advocate
Revenue by	:	Shri Raghunath, Sr. DR
Date of Hearing	:	04.05.2023
Date of Pronouncement	:	09.05.2023

ORDER

PER M. BALAGANESH, AM:

This appeal in ITA No.5086/Del/2019 for AY 2014-15 arises out of the order of the Commissioner of Income Tax (Appeals)-4, New Delhi, [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No.55/17-18/CIT(A)-4 dated 08.04.2019 against the order of assessment passed u/s 143(3) of the Income-

tax Act, 1961 (hereinafter referred to as 'the Act') dated 21.11.2016 by Income-tax Officer, Circle 11(2), New Delhi, (hereinafter referred to as 'Id. AO').

2. The Ground No. A and C raised by the assessee are general in nature and does not require any specific adjudication.

3. The Ground Nos. B 1 and B 2 raised by the assessee were stated to be not pressed by the Id. AR at the time of hearing. The same is reckoned as a statement made from the Bar and hence dismissed as not pressed.

4. The Ground Nos. B 3 to B 5 raised by the assessee are challenging the sustenance of disallowance of bad debts written off by the assessee in the sum of Rs 13,87,981/- by the Id. CIT(A).

4.1. We have heard the rival submissions and perused the materials available on record. It is not in dispute that the assessee is engaged in the business of (a) generation and distribution of power through small generators powered by burning of crop husk in the remote rural areas; (b) manufacturing agarbatti from the residue of the burned husk in the power generation ; (c) selling the mini power plants to its partners at different locations and (d) receiving monthly fees as revenue from Build , Operate and Maintain (BOM) model in the BOM segment of mini generators.

4.2. The Id. AO observed that the assessee had debited an amount of Rs 13,87,981/- on account of bad debts written off in the profit and loss account and claimed the same as deduction in the return of income. The assessee vide order sheet entry dated 17.10.2016 was required to submit the details of bad debts written off and justification for allowability of the same. The Id. AO observed that the assessee did not furnish any details. Accordingly, the Id. AO

concluded that assessee had not made out a case for claiming deduction u/s 36(1)(vii) r.w.s. 36(2) of the Act and accordingly disallowed the bad debts written off in the sum of Rs 13,87,981/-.

4.3. Before the Id. CIT(A), the assessee submitted the complete details of bad debts written off and also stated that the bad debts were considered as receipt in the year in which power was sold to the concerned customers. The sales figures of these consumers were already booked as income and also shown in the audited books. The assessee had recognized sales on basis of power supplied to various villagers, but the realization of sale proceeds is not complete and there is a lot of bad debts and the actual realization is less than those booked as income in the books of accounts. Accordingly, to the extent of monies not received, the assessee had shown the same as irrecoverable and written off the same in its books of accounts by reflecting as bad debts written off. The Id. CIT(A) acknowledged the submission of details filed by the assessee in the form of copy of ledger of monthly collection receivable for the month of March and monthly summary of collection receivable. From the perusal of the same, the Id. CIT(A) concluded that the assessee had recognised sales during the year and had claimed part of it as bad debts during the year itself. He concluded that it is highly improbable for a company to recognize its income as bad debts in the year in which such income is recognised until and unless there are strong and cogent reasons for doing so. Accordingly, he upheld the action of the Id. AO. Aggrieved, the assessee is in appeal before us.

4.4. We find that the assessee had claimed the bad debts written off as under:-

					Annexure A
18	Revenue From Operations		31 March 2014	Written off	Remarks
	<u>Sale of Electricity :</u>				
	Connection Charge	9,400	1,51,80,896		
	Monthly Collection Charge	1,44,00,306		13,51,601	Customer register attached Annexure A.1
	Solar Monthly Collection Charge	7,71,190			
	Sale of Goods		2,07,31,744	17,900	CST @2% on BM Sales- Invoice and Sales return debit note attached Annexure A.2 & A.3
	Sale of Services		2,07,29,039		
	<u>Other Operating Income:</u>				
	Agarbatti Sales @ 0%	24,29,780	24,92,594		
	Rice Husk Carbon As Charcoal @0%	51,600		1,100	Ledger details attached Annexure A.4
	BOM - FEES	-54,500			
	BOM- Monthly Fees	65,714		11,214	Bom fees written off
	BOM Monthly Fees Receivable(old)	6,166		6,166	Bom fees written off
	Total		5,91,34,273	13,87,981	

Husk Power Systems Pvt Ltd				Annexure A.1	
Power Generation Business				Amount FY 2013-14	
S.No	Plants	Revenue	Received	Discount	Receivable
1	Yamunapur Pharsahni Plant	3,33,718	3,04,943	2,050	26,725
2	Bhuidharwa	3,96,110	3,94,530	1,070	510
3	Daunaha Plant	2,93,985	2,47,748	4,221	42,016
4	Dhuniwapatti Plant	6,28,844	5,96,503	13,519	18,822
5	Khotawan	4,00,683	3,78,862	5,050	16,771
6	Rupahi	4,05,600	4,02,517	1,500	1,583
7	Madhubani	87,450	5,275	43,725	38,450
8	Marchawha	65,925	14,340	21,975	29,610
9	Murgahawa Plant	2,46,190	2,21,665	2,570	21,955
10	Ranglalhi	3,33,376	2,43,485	3,687	86,204
11	Barwa Plant	2,81,531	2,62,054	400	19,077
12	Dahwa Plant	4,49,850	4,18,855	1,595	29,400
13	Tunihawa Plant	3,37,940	3,07,185	3,115	27,640
14	Ghorawa	55,225	31,600	-	23,625
15	Muradi Plant	4,71,639	3,79,109	-	92,530
16	Bairasthan	4,51,775	3,72,720	-	79,055
17	Manjaharia Plant	4,54,795	3,48,050	150	92,275
18	Piprasi Plant	1,81,440	1,47,100	3,122	31,218
19	Bhatahwa	1,90,704	1,60,879	-	29,825
20	Koirepatti Plant	4,95,385	4,64,610	5,647	25,128
21	Malahitola Plant	4,21,180	4,01,571	605	19,004
22	Thakraha Plant	7,03,286	6,49,056	3,465	50,765
23	Bhelahi Plant	2,54,125	2,33,860	5,045	15,220
24	Surajpur Plant	41,600	12,050	350	29,200
25	Majhoulia Plant	8,98,640	8,88,760	6,860	3,020
26	Mathiya Brith Baithaniya	3,16,380	2,88,250	15,425	12,705
27	Sarisawa Plant	7,76,055	7,15,183	17,270	43,602
28	Shyampur Baithaniya Plant	5,09,510	4,59,505	27,495	22,510
29	Dhumnagar Plant	2,80,600	2,30,000	4,956	45,644
30	Mangalpur Plant	4,35,785	3,92,742	11,445	31,598
31	Nautan Plant	3,72,677	2,98,794	46,194	27,689
32	Shivrajpur Plant	3,38,335	2,65,140	48,820	24,375
33	Bajhiya	3,47,020	3,20,554	17,870	8,596
34	Malahi Bazaar Plant	3,47,525	2,96,360	18,690	32,475
35	Sangrampur	3,24,645	2,90,540	17,855	16,250
36	Inarwa Plant	32,000	10,220	-	21,780
37	Machhargawa	10,200	10,000	50	150
38	Pokharia Ray	2,67,376	2,38,440	4,295	24,641
39	Mahuawa	46,545	46,545	-	-
40	Thumba Plant	2,40,917	1,74,695	8,035	58,187
41	Bhadai	6,13,998	5,00,201	26,433	87,364
42	Runi Saidpur	2,59,742	1,99,210	16,125	44,407
	Total	1,44,00,306	1,26,23,706	4,10,679	13,51,601

4.4.1. We find that the assessee had duly offered the sale in its power generation business to the aforesaid parties as income in its books and only to the extent of monies not recovered, the assessee had chosen to write off the same in its books of accounts treating it as irrecoverable by duly crediting to the account of concerned parties. Hence the assessee had duly complied with the provisions of section 36(1)(vii) r.w.s. 36(2) of the Act and accordingly would be entitled for deduction in the sum of Rs 13,51,601/- thereon.

4.4.2. We find that the assessee had also furnished the sale invoice dated 30.6.2013 amounting to Rs 9,12,900/- (comprising of sale bill of Rs 8,95,000/- and CST of Rs 17,900/-) in respect of sales made to KMR Energy Pvt Ltd in page 3 of the paper book. Subsequently, the assessee had duly reversed this sale in its books of accounts treating it as 'sales return'. We find that the fact of sales return is not disputed by the revenue before us. Since the sales return voucher was prepared by the assessee on 31.3.2014, the CST component thereon of Rs 17,900/- was already paid by the assessee to the Government. Hence the said CST portion became irrecoverable from the customer, which had to be written off by the assessee as bad debts. Hence this sum of Rs 17,900/- becomes squarely allowable as deduction towards bad debts written off.

4.4.3. With regard to the claim of bad debts in the sum of Rs 1,100/-, we find that the assessee had duly offered to tax by booking sales of rice husk carbon as charcoal and to the extent of amount not realized, the assessee had written off the same in its books of accounts treating it as irrecoverable by duly crediting to the concerned parties account. Hence this sum of Rs 1,100/- becomes squarely allowable as deduction towards bad debts written off.

4.4.4. With regard to BOM segment fees for the year, the assessee had duly recognised the said fees as its income and to the extent of amounts not realized,

it had chosen to write off the same in the sum of Rs 11,214/- by duly crediting the concerned parties account in its books of accounts. Hence this sum of Rs 11,214/- would be eligible for deduction as bad debts written off.

4.4.5. With regard to BOM segment fees receivable in the sum of Rs 6,166/-, the same pertains to earlier year and as per the mercantile system of accounting followed by the assessee regularly, the assessee had already booked its income in this regard in earlier year and offered to tax. This would be in compliance to the provisions of section 36(2) of the Act. Since this sum remained irrecoverable, the assessee chose to write off the same in its books of accounts by duly crediting to the parties account. Hence the said sum of Rs 6,166/- would be squarely allowable as deduction u/s 36(1)(vii) of the Act.

4.5. From the perusal of the order of the Id. CIT(A), it is not in dispute that the assessee had claimed bad debts written off in respect of sales made during the year. This goes to prove that the assessee had indeed offered the sales amount initially to tax which would be in compliance to the provisions of section 36(2) of the Act. Since part of the said sales amount is not received, the assessee had claimed the same as bad debts written off.

4.6. Hence we hold that the assessee would be entitled for deduction on account of bad debts written off in the sum of Rs 13,87,981/-. Accordingly, the Grounds B 3 to B 5 are allowed.

5. The Ground No. 6 raised by the assessee is challenging the levy of interest u/s 234 B, 234 C and 234 D of the Act, which are consequential in nature and does not require any specific adjudication .

6. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 09.05.2023

Sd/-

Sd/-

(C.M. GARG)
JUDICIAL MEMBER

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 09th May, 2023.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi