

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “H”,MUMBAI**

BEFORE SHRI AMIT SHUKLA (JUDICIAL MEMBER)

AND

MS. PADMAVATHY S. (ACCOUNTANT MEMBER)

I.T.A. No.1399/Mum/2023

(Assessment year : 2016-17)

KMI Business Technologies Private Limited, 1008, Dalamal House Nariman Point, Mumbai-400 021 PAN : AAACO7146E	vs	DCIT-CC-8(2), Mumbai Room No.658, Aayakar Bhavan M.K. Road, Mumbai-400 020
APPELLANT		RESPONDENT

Present for the Assessee	Shri Priyank Ghia, CA
Present for the Department	Shri Prakash Kishinchandani, Sr.AR

Date of hearing	17/08/2023
Date of pronouncement	22/08/2023

ORDER

Per Padmavathy S (AM):

This appeal is against the order of the Commissionuer of Income-tax (Appeals), National Faceless Appeal Centre (NFAC)(in short, [CIT(A)] dated 21/03/2023 for A.Y. 2016-17.

2. The assessee is engaged in the business of computers, calculators, data processing equipments, etc. For the Assessment Year 2016-17, the assessee filed the return of income on 28/03/2018 declaring a total income of Rs.2,45,97,380/- as per the normal provisions of the Act and Rs.2,35,93,297/- under the provisions of section 115JB of the Act. The case was selected for scrutiny and statutory notices were duly served on the assessee. On perusal of the books of account, the Assessing Officer noticed that the assessee has debited an amount of Rs.51,62,888/- as bad debts in the P&L Account. The Assessing Officer called on the assessee to furnish the details of bad debts, in response to which the assessee filed details such as party name, Permanent Account Number and the amount. The Assessing Officer disallowed the amount written off as bad debts for the reason that the assessee had not given details and evidences to substantiate the claim. Aggrieved, the assessee filed appeal before the CIT(A).

3. Before the CIT(A), the assessee submitted that services have been rendered to those parties and the income there from has been accounted for in the earlier years. The assessee further submitted that the amount no longer recoverable from the debtors, have been written off as bad debts. The assessee also furnished the copies of ledger accounts before the CIT(A). With regard to the AO's contention that assessee had not furnished the details to substantiate the claim of bad debts, the assessee submitted before the CIT(A) that in the notice calling for details, the Assessing Officer only asked for details of certain expenses including bad debts and that he did not call for any supporting documents. The assessee relied on the decision of the Hon'ble Supreme Court in the case of TRS Ltd vs CIT (2010) 323 ITR 397 (SC) to submit that where the income is already offered to tax, the bad debts need not be proven to be irrecoverable under section 36(1)(vii) and it is sufficient if it is written off in the books. The assessee further relied on various

judicial pronouncements in this regard. The CIT(A) upheld the disallowance by holding that –

“5. The assessment order, appeal documents and the submissions filed by the appellant have been perused. The AO, during the course of assessment proceedings, asked the appellant to furnish details of expenses which included bad debts, in response to which the appellant filed details which included name of the party, PAN and the amount. The AO observed that the details were incomplete and hence issued a show cause notice, asking the appellant to produce supporting documents to prove the claim. The AO thereafter concluding the assessment proceedings by disallowing the bad debts of Rs. 51,62,888/-.

5.1 During the course of appeal proceedings, the appellant was requested to furnish copies of ledger account of each debtor and also requested to inform as to whether narration of written off debts is made as the confirmation of balances does not contain write-off. The appellant did not file the required confirmation as called for. It is to be seen that even in the case law relied upon by the appellant, the Hon'ble Supreme Court remitted the issue of bad debts to the AO to examine whether the bad debt or part thereof was written off in the accounts of the assessee. Even the AO during assessment proceedings, and the CIT(A) during appellate proceedings had asked the appellant to give the same, i.e. "whether narration of written off debts is made", for which the appellant did not make the required compliance except for furnishing the unsigned confirmation of accounts/customer ledger confirmation where the required narration was not appearing. In view of the above, the grounds raised by the appellant are dismissed.”

4. The Ld.AR submitted that only reason for CIT(A) to uphold the disallowance is that the narration in the ledger account does not confirm that the debt has actually been written off. The Ld.AR further submitted that the copies of ledger accounts to substantiate that the income from services rendered to the parties have been accounted for and that the debts written off due to non recoverability were furnished before the CIT(A).

5. The Ld.AR, during the course of hearing, submitted additional evidence by way of journal vouchers of entries in the books of account wherein the narration is duly reflected. The Ld.AR submitted that the additional evidence is not any fresh claim but to substantiate further details already submitted before the CIT(A). Accordingly, the Ld.AR prayed for admission of additional evidence. The Ld.DR, on the other hand, relied on the order of CIT(A).

6. We heard the parties and perused the materials on record. With regard to disallowance the additional evidences now produced go the root of the issue and the core reason for not granting the deduction by the lower authorities. For a proper adjudication of the issue and for substantial cause, the additional evidence is admitted and taken on record. It is noticed that the assessee has submitted the ledger copies of the parties which have been written off as bad debts being non recoverable (pages 5 to 22 of paper book) before the CIT(A). From the perusal of the ledger accounts, it is clear that the assessee has accounted the income from those parties and the same have been offered to tax. The CIT(A) has held that assessee did not make the required compliance except for furnishing unsigned customer ledger copies which did not have the required narration stating that bad debts have actually been written off. The assessee now has submitted the journal vouchers with narrations to substantiate that the amounts which are not recoverable have been written off in the books of account as bad debts. Since the lower authorities did not verify the details submitted to support the claim that the bad debts have actually been written off in the books of account, we deem it fit to remit the issue back to the Assessing Officer with direction to examine the details submitted with regard to the bad debts written off and decide the issue in

ratio laid down by the Hon'ble Supreme Court in the case of TRF Ltd (supra).Needless to say that the assessee be given an opportunity of being heard.

7. In the result, appeal is allowed for statistical purpose.

Order pronounced in the open court on 22/08/2023.

Sd/-

sd/-

(AMIT SHUKLA)	(PADMAVATHY S.)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai, Dt : 22nd August, 2023

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

**Asstt. Registrar / Senior Private Secretary
ITAT, Mumbai**