

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

श्री मंजुनाथ. जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANJUNATHA. G, ACCOUNTANT MEMBER AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ITA No.794/Chny/2023
निर्धारण वर्ष /Assessment Year: 2015-16

M/s. Dollar Biscuits Company Pvt. Ltd., No.16A, New No.20, Rajarithnam Street, Kilpauk, Chennai – 600 010. [PAN: AAACD-3180-H] (अपीलार्थी/Appellant)	Vs. The Asst. Commissioner of Income Tax (OSD), Corporate Range-1, Chennai. (प्रत्यर्थी/Respondent)
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अपीलार्थी की ओर से/ Appellant by	:	Shri M.K. Rangasamy, C.A
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/Date of Hearing	:	13.02.2024
घोषणा की तारीख /Date of Pronouncement	:	28.02.2024

आदेश / O R D E R

PER MANOMOHAN DAS, J.M:

This appeal by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [CIT(A)], dated 30-05-2023 and pertains to the Assessment Year [AY] 2015-16. The grounds of appeal of the assessee are as under:

1. *The order dt 30.05.2023 by the NFAC, Delhi in confirming the disallowance of Bad Debts of Rs. 2,06,66,940/- made by the Ld. AO, which was claimed as business loss by the appellant in the*

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ROI, in upholding the Assessment of the Assessing Officer for Assessing year 2015 - 2016 U/s 143(3) is contrary to facts and opposed to law.

2. *The NFAC, Delhi has grossly erred in confirming the disallowance of bad debts of Rs. 2,06,66,940/- which being a business loss written off by the appellant after taking appropriate steps for recovery which was demonstrated with proper proof before the Ld. AO and as well as in the faceless appellate proceedings.*
3. *The NFAC has not considered the fact the nature of Commercial expediency which was demonstrated with proper proof by the Appellant in the assessment / appellate forum and complying with the conditions laid down u/s 36(1)(vii) r.w.s 36(2) of the IT Act before writing off of the same as bad debts as business expenditure*
4. *The NFAC has grossly erred in not taking into account, the change in management, time lag involved in the business transaction and the detailed submissions made before the Ld. AO wherein the issue on bad debts written off was explained in detail.*
5. *The appellant has further submitted with necessary evidences leading to severe cash crunch and subsequently selling all assets of the company which lead to closure of the business with sufficient evidences in the paper Book filed along with the written submissions, which were not considered in the assessment/ appellate proceedings.*
6. *The NFAC erred in quoting a case law in page no. 7 point no. 5.4 which is not pertinent and applicable in the case of the appellant. The appellant having been complied with the proviso laid down in the Act for claiming a bad debt, the said case law is not relevant in its case.*

For these and among other grounds that may be allowed to be adduced later, the appellant humbly and respectfully prays that the disallowance of bad debts written off confirmed by the NFAC, Delhi and by the Ld. AO in the assessment be ordered to be deleted and the appeal allowed.

2. The brief facts of the case are that the assessee is a Private Limited Company incorporated on 19-09-1983 with the main object of carrying out manufacturing /trading / conversion of Biscuits, wheat and

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related products. The assessee was manufacturing biscuits in its own BRAND NAME "Dollar Biscuits" till 1987. Due to labour unrest in the factory, poor realisation from the debtors and competitions from the Multinational Companies, the assessee was compelled to stop its manufacturing operations in the year 1987. Thereafter, the assessee was carrying out trading activity for a period of 10 to 15 years and ultimately entered into a job work contract entered with M/s. Britannia Industries Limited on 02-08-2008. The assessee filed its return of income for the AY 2015-16 on 30-09-2015 admitting a total income of Rs.19,58,170/- and the case was selected for complete scrutiny through CASS. The statutory notice under section 143(2) dated 01-08-2016 served upon the assessee. Statutory notice u/s 142(1) also served upon the assessee in compliance of which the assessee appeared and filed the details. The assessee claimed deduction on bad debts of Rs. 2,06,66,937/- through the return of income filed on 30-09-2015. The Id. Assessing Officer considered the case of the assessee and observed that the evidences furnished by the assessee in support of his claim on bad debts are not reliable and accordingly vide order dated 19-12-2017 rejected the claim of the assessee and added the amount of Rs.2,06,66,937/- to the total income of the assessee.

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3. Being aggrieved, the assessee filed 1st appeal before the Id. CIT(A). The Id. CIT(A) vide order dated 30-05-2023 dismissed the appeal of the assessee.

4. Being aggrieved, the assessee filed the present appeal before the Tribunal.

5. Heard the representatives of both the parties and perused the materials on record. The Ld. AR submitted that the relevant evidences were placed before the lower authorities in support of the claim of the assessee. The Ld. AR further submitted that the evidences in original could not file as the same are pertained to records of more than 17 years, however evidences were furnished before the lower authorities and the Id. AO ought to allow the claim of the assessee. On the other hand, the Ld. DR submitted that the assessee's activities were closed from 1987, loans were granted to companies and firms in which directors of the assessee were interested. The Ld. DR supports the orders of the lower authorities.

6. We carefully considered the submissions of the parties and perused the materials on record. We observe that the assessee was carrying out trading activity of buying and selling of wheat, sugar, atta,

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maida and related products and income earned thereon was offered to tax in the trading profit & loss account. The credit sales made during this process of business activity to certain parties have been unrealised despite of steps taken for recovery and ultimately, the assessee has written off the debts due from such parties as bad debts. The following are the names of the parties from whom recovery have to be made.

- (i) *Ashoka Traders, (ii) Ananda Industries, (iii) Arvind Industries, and (iv) AnnaiMookabigai Roller Flour Mills Pvt. Ltd.*

7. The Id. AO rejected the claim of the assessee by observing that the evidences furnished by the assessee are newly written documents and the assessee could not furnish original copy of the evidence as asked for. The assessee could not file the original as the same are pertaining to the year of 1999-2000. The Id. AO doubted the same as the original is not available, how the copy of the same is available with the assessee. However, it is our considered opinion that copy of a missing document may be available with a person. Therefore, the observation of the Id. AO is not tenable.

8. Secondly, the assessee furnished copies of letters which were served upon the borrowers vide which the assessee demanded payment of the outstanding amount from the debtors. The assessee

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demanded repayment of the dues from his customers by issuing various letters issued on various dates. The Id. AO observed that the same were newly written documents. Thus, the Id. AO gives a hint that the evidences as furnished by the assessee are doubtful. However, we are of the view that on merely on ground of doubt the claim of the assessee cannot be rejected.

9. The Id. CIT(A) vide his order confirmed observation of the Id. AO. The Id. CIT(A) pressed into the service of the decision of the Hon'ble Jurisdictional Madras High Court in respect of the case of Southern Technologies Ltd. V. Joint Commissioner of Income Tax, Coimbatore, 2006 287 ITR 62 (Mad) while dismissing the appeal of the assessee. However, the Id. AR submitted that that decision is related to provision for doubtful debt which is different.

10. We consider the said decision of the Hon'ble Madras High Court and observe that it is related to provision for doubtful debt and the facts of the present appeal is related to written off of bad debts. Therefore, the decision relied on by the Id. CIT(A) is not applicable in the case in our hands.

11. The Id. AO further observed that the amount was due from a company wherein the director is interested. In this context, we

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perused copy of the Minutes of the Board of Directors of the assessee company dated 30-11-2014 vide which the assessee company decided to write off the debts appearing in the books of accounts as on 31-03-2014 and names of the parties and amounts of debt as was outstanding from the parties are mentioned there. (page 173 of PB).

12. In view of the aforesaid, it is our considered opinion that the claim of the assessee for deduction of bad debt is genuine and the same has to be allowed. Thus, we set aside the order of the Id. CIT(A) dated 30-05-2023 and direct the AO to delete addition made towards bad debts written off u/s.36(1)(iii) of the Act.

13. In the result, the appeal of the assessee is allowed.

Order pronounced on 28th February, 2024.

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 28th February, 2024.

EDN/-

Sd/-
(मनोमोहन दास)
(Manomohan Das)
न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF