

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM
AND PRAKASH CHAND YADAV, JM**

**ITA No. 738/Coch/2023
Assessment Year: 2017-18**

Anna Aluminium Company (P) Ltd. Appellant
KP 111 847, Kizhakkambalam, Aluva 683562
[PAN: AAFCA6562R]

vs.

DCIT, Corporate Circle-1(1), Kochi Respondent

Appellant by: Shri Harikrishnanunny, CA
Respondent by: Shri Sundarasan S., CIT-DR

Date of Hearing: 28.05.2025
Date of Pronouncement: 27.06.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 26.08.2023 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the appellant is a company incorporated under the provisions of Companies Act. The return of income for AY 2017-18 was filed on 30.10.2017 declaring income of Rs. 7,50,26,610/-. Against the said return of income, the assessment was completed by the DCIT, Corporate Circle 1(1), Kochi (hereinafter called "the AO") vide order dated 23.12.2019

passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 12,75,23,400/-. While doing so, the AO disallowed the claim for bad debts written off of Rs. 5,03,26,576/- by holding that the appellant company had created only provision but actually not written off the debts. The AO also made addition of Rs. 21,70,211/- u/s. 41(1) of the Act by holding that sundry creditors are outstanding for more than three years.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order while remitting the issue of addition u/s. 41(1) to the file of the AO, confirmed the addition on account of bad debt written off.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. The learned A.R. submits that in view of the decision of the Hon'ble Apex Court in the case of *Vijaya Bank v. CIT* [2010] 323 ITR 166 debiting the provision for bad and doubtful debts to Profit & Loss A/c. reducing the same from the asset side of the Balance Sheet amount to write off. Therefore, he submits that the bad debts claim can be allowed as deduction. No distinction is made between banking company and non banking company in respect of write off of debts. Further he submits that the CIT(A) ought not have restored the matter to the AO on the issue of addition u/s. 41(1) of the Act as there is no cessation of liability.

6. On the other hand, the learned Sr. DR, placing reliance on the orders of the learned lower authorities submitted that no interference is called for.

7. We have heard the rival contentions and perused the material available on record. Ground of appeal Nos.1 & 4 are general in nature. Ground No. 2 challenges the correctness of the decision of the CIT(A) upholding the write off bad debts. The AO had extracted the details of the debts which are written off in the books of account in page 2 of the assessment order. It is the contention of the appellant that debiting provisions of bad and doubtful debts to Profit & Loss A/c. and reducing the provision for bad and doubtful debts from the sundry debtors on asset side of the Balance Sheet amounts to write off as held by the Hon'ble Apex Court in the case *Vijaya Bank (supra)*. However, the AO was of the opinion that it amounts to only provision but not actual write off. Further, in appeal before the CIT(A) took similar view and confirmed the addition. There is no dispute about the fact that the appellant had created provision for bad and doubtful debts which was debited to the Profit & Loss A/c. and reduced the same from the sundry debtors account on the asset side of the Balance Sheet. However, the individual ledger accounts of the debtors the amounts were not written off. In our considered opinion, the method of write off followed by the assessee amounts to write off as held by the Hon'ble Supreme Court in the case of *Vijaya Bank (supra)*, which is extracted below: -

“7. One point needs to be clarified. According to Shri Bishwajit Bhattacharya, learned Addl. Solicitor General appearing for the Department, the view expressed by the Gujarat High Court in the case of Vithaldas H. Dhanjibhai Bardanwala (supra) was prior to the insertion of the Explanation vide Finance Act, 2001, w.e.f. 1st April, 1989, hence, that law is no more a good law. According to the learned counsel, in view of the insertion of the said Explanation in s. 36(1)(vii) w.e.f. 1st April, 1989, a mere debit of the impugned amount of bad debt to the P&L a/c would not amount to actual write off. According to him, the Explanation makes it very clear that there is a dichotomy between actual write off on the one hand and a provision for bad and doubtful debt on the other. He submitted that a mere debit to the P&L a/c would constitute a provision for bad and doubtful debt, it would not constitute actual write off and that was the very reason why the Explanation stood inserted. According to him, prior to Finance Act, 2001, many assessees used to take the benefit of deduction under s. 36(1)(vii) of 1961 Act by merely debiting the impugned bad debt to the P&L a/c and, therefore, the Parliament stepped in by way of Explanation to say that mere reduction of profits by debiting the amount to the P&L a/c per se would not constitute actual write off. To this extent, we agree with the contentions of Shri Bhattacharya. However, as stated by the Tribunal, in the present case, besides debiting the P&L a/c and creating a provision for bad and doubtful debt, the assessee-bank had correspondingly/simultaneously obliterated the said provision from its accounts by reducing the corresponding amount from loans and advances/debtors on the asset side of the balance sheet and, consequently, at the end of the year, the figure in the loans and advances or the debtors on the asset side of the balance sheet was shown as net of the provision "for impugned bad debt". In the judgment of the Gujarat High Court in the case of Vithaldas H. Dhanjibhai Bardanwala (supra), a mere debit to the P&L a/c was sufficient to constitute actual write off whereas, after

the Explanation, the assessee(s) is now required not only to debit the P&L a/c but simultaneously also reduce loans and advances or the debtors from the asset side of the balance sheet to the extent of the corresponding amount so that, at the end of the year, the amount of loans and advances/debtors is shown as net of provisions for impugned bad debt. This aspect is lost sight of by the High Court in its impugned judgment. In the circumstances, we hold, on the first question, that the assessee was entitled to the benefit of deduction under s. 36(1)(vii) of 1961 Act as there was an actual write off by the assessee in its books, as indicated above.”

8. The ratio laid down by the Hon'ble Supreme Court in the case of Vijaya Bank (supra) is squarely applicable to the facts of the present case and, therefore, the learned lower authorities were not justified in rejecting the claim for bad debts. Accordingly, we direct the AO to delete the addition on account of bad debt written off. Ground of appeal No. 2 raised the assessee stands allowed.

9. Ground of appeal No. 3 challenges the decision on outstanding creditors only on the ground that sundry creditors are outstanding for a period of 3 years, invoking the provisions of section 41(1) of the Act. The mere fact that sundry creditors are outstanding for more than 3 years does not mean that the liability had ceased to exist and the provisions of section 41(1) have no application. In this context reliance can be placed on the decision of the Hon'ble Karnataka High Court in the case of CIT v. Reddi Sahakara Bank Niyamitha [2017] 395 ITR 652. Therefore, this ground of appeal stands allowed.

10. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 27th June, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th June, 2025

n.p.

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1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
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Assistant Registrar
ITAT, Cochin