

IN THE INCOME TAX APPELLATE TRIBUNAL

"SMC" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.1502/Mum/2025
(Assessment Year : 2015-16)

**Deputy Commissioner of Income Tax -
15(1)(2),**

Aayakar Bhawan, Churchgate,
Mumbai - 400020

..... Appellant

v/s

Ispat Infrastructure India Ltd.,

Office No.470 Central Facility Building,
Phase - II, Sector 19 Vashi,
Navi Mumbai - 400705
PAN : AABCI0639P

..... Respondent

Assessee by : Shri Hemant Vora

Revenue by : Shri A.M.K. Mahadevan, Sr.DR

Date of Hearing - 25/09/2025

Date of Order - 26/09/2025

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The Revenue has filed the present appeal against the impugned order dated 27.12.2024, passed under section 250 of the Income-tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre, Delhi [*learned CIT(A)*], for the assessment year 2015-16.

2. In this appeal, the Revenue has raised the following grounds: -

"1. Whether the CIT(A) erred in deleting the disallowance of bad debts claimed under Section 36(1)(vii) without requiring the assessee to prove the actual irrecoverability of the debt, despite the settled position that mere book entry is not sufficient to justify such a claim?"

"2. Whether the CIT(A) was justified in deleting the addition on account of labour expenses despite the assessee's failure to furnish documentary evidence proving the authenticity of such expenses?"

"3. Whether the CIT(A) was justified in deleting the disallowance of operator expenses merely based on ledger accounts without any documentary proof, such as invoices or contracts, supporting the actual incurrence of expenses?"

"4. Whether the CIT(A) was correct in deleting the disallowance of 10% of motor car and telephone expenses without considering the possibility of personal use, which is a standard practice in income tax assessments?"

3. The issue arising in Ground No.1, raised in Revenue's appeal, pertains to the disallowance of bad debts claimed under section 36(1)(vii) of the Act.

4. The brief facts of the case pertaining to this issue are that: The assessee is engaged in the business of reselling construction equipment. For the year under consideration, the assessee filed its return of income on 31.10.2015, declaring a loss of Rs.2,18,93,166/-. The return filed by the assessee was selected for complete scrutiny, and statutory notices under section 143(2) and section 142(1) were issued and served on the assessee. During the assessment proceedings, it was observed that the assessee had claimed bad debts amounting to Rs. 2,23,73,875/-. However, no supporting evidence for the same was provided by the assessee, and the assessee did not respond to the show cause notice issued during the assessment proceedings. Accordingly, the Assessing Officer ("AO"), vide order dated 29.12.2017 passed under section 143(3) of the Act, disallowed the bad debts claimed by the assessee.

5. During the appellate proceedings before the learned CIT(A), the assessee filed the ledger of bad debts claimed for Rs.2,23,73,875/- and also the ledger of all accounts receivable from parties which were treated as bad debts. The learned CIT(A), in compliance with Rule 46A of the Income Tax

Rules, 1962, forwarded the evidence received from the assessee to the AO and sought the remand report. After consideration of the remand report received from the AO and submissions filed by the assessee, the learned CIT(A) vide impugned order, deleted the disallowance made on account of bad debts on the basis that after 01.04.1989 there is no requirement for the assessee to establish that the debts, in fact, have become irrecoverable. Being aggrieved, the Revenue is in appeal before us.

6. During the hearing, the learned Departmental Representative ("*learned DR*") submitted that the learned CIT(A) has not examined whether the assessee has complied with the conditions of section 36(2) of the Act and how the income was offered in the earlier year.

7. On the other hand, the learned Authorised Representative ("*learned AR*") submitted that all the details were filed before the AO on 29.12.2017 in response to the show cause notice issued during the assessment proceedings. However, the AO passed the assessment order on the very same date without considering the assessee's response.

8. We have considered the submission of both sides and perused the material available on record. From the perusal of the impugned order, we find that the AO furnished the following response in its remand report before the learned CIT(A) on this issue:

"2.2 The AO observed that the assessee has claimed Bad Debts of Rs. 2,23,73,875/-. However, as the assessee has not furnished details thereof, thence, he AO disallowed the same. During the course of remand proceedings, the assessee has furnished only the names and ledger accounts of said parties. Mere furnishing the names and addresses and figures does not establish the debts becoming bad and doubtful. The assessee also has not furnished the details of purchases, items purchased, details of sales of those items, proceeds and repaid to

the purchaser, details of entire transactions and correspondences with said parties. The assessee also has not furnished details as to how the debts became bad and doubtful. The assessee also has not furnished any other supporting evidences to establish its claim. Hence, the AO has correctly disallowed the claim of the assessee. Accordingly, the issue may be decided on merits."

9. There is no dispute regarding the fact that after 01.04.1989, it is not necessary for the assessee to establish that the debt, in fact, has become irrecoverable, and it is enough if the bad debt is written off as irrecoverable in the accounts of the assessee. This position is settled by the Hon'ble Supreme Court in TRF Ltd. vs. CIT, reported in (2010) 190 Taxman 391 (SC). However, at the same time, it is necessary that the assessee satisfies the conditions of the provisions of section 36(2) of the Act. However, in the present case, we do not find that the same has been examined by the learned CIT(A). Furthermore, the AO, in its remand report, as noted above, also identified various infirmities in the submission filed by the assessee.

10. Therefore, in view of the facts and circumstances as noted above, we deem it appropriate to restore this issue to the file of the Jurisdictional AO for *de novo* adjudication, granting one more opportunity to the assessee in the interest of justice and fair play to submit all the details/documents in support of the claim of allowance of bad debts under section 36(1)(vi) of the Act. Needless to mention, no order shall be passed without affording the assessee a due opportunity to be heard. Accordingly, the impugned order on this issue is set aside, and Ground No.1 raised in Revenue's Appeal is allowed for statistical purposes.

11. The issue arising in Ground No.2, raised in Revenue's Appeal, pertains to the deletion of the addition on account of labour expenses.

12. During the hearing, the learned AR, at the outset, in all fairness, submitted that the addition on this issue was upheld by the learned CIT(A), and this ground has been inadvertently raised in the present appeal. Accordingly, without expressing any opinion on the findings of the learned CIT(A) on this issue, as the assessee is not in appeal before us against the same, this ground is left open.

13. The issue arising in Ground No.3, raised in Revenue's Appeal, pertains to the deletion of operator expenses.

14. We have considered the submission of both sides and perused the material available on record. During the year under consideration, the assessee claimed operator expenses of Rs.10,12,000/-. In the absence of any documents in support of its claim, the AO, vide order passed under section 143(3) of the Act, disallowed the operator expenses amounting to Rs. 10,12,000 claimed by the assessee and added the same to the total income of the assessee. The learned CIT(A), vide impugned order, allowed the ground raised by the assessee on this issue by observing as follows: -

"6.13 The appellant maintains accounts which are subject to audit. By AO's own admission the ledger account was produced. Therefore disallowance of this claim of expenditure is not in order. This addition is deleted. Ground 3 is allowed."

15. During the hearing, the learned DR submitted that the assessee neither in the assessment proceedings nor before the remand proceedings furnished any documentary evidence in support of operator expenses and thus could not satisfy the conditions that said expenditure was incurred wholly and exclusively for the purpose of the business. The learned AR, reiterating the

submissions made in respect of the afore-noted issue, submitted that all the details were furnished before the AO; however, on the very same date, the AO passed the assessment order.

16. From the response of the AO in its remand report before the learned CIT(A), we find that the assessee did not furnish any details during the remand proceedings and only furnished the ledger accounts. From the perusal of the impugned order, we find that the learned CIT(A), without examining this aspect of the matter, simply deleted the addition on the basis that the assessee has maintained the accounts which are subject to audit. Therefore, we are of the considered view that this aspect requires fresh consideration. Consequently, we restore this issue to the file of the Jurisdictional AO for *de novo* adjudication, granting the assessee one more opportunity to furnish details/submissions in respect of its claim. Accordingly, the impugned order on this issue is set aside, and Ground no.3 in Revenue's appeal is allowed for statistical purposes.

17. The issue arising in Ground No.4, raised in Revenue's Appeal, pertains to the deletion of the disallowance of motor car and telephone expenses.

18. We have considered the submission of both sides and perused the material available on record. As the assessee failed to respond to the show cause notice issued during the assessment proceedings, the AO vide order passed under section 143(3) of the Act disallowed 10% of the motor car and telephone expenses claimed by the assessee and made an addition of Rs.2,84,600/- to the total income of the assessee. The learned CIT(A) vide

the impugned order deleted the said addition, mainly on the basis that it was ad hoc and the assessee's books of account were duly maintained and accounted for.

19. From the perusal of the record, it is evident that neither in the assessment proceedings nor in the remand proceedings before the AO did the assessee furnish details regarding the motor car and telephone expenses amounting to Rs. 2,84,600/- claimed by the assessee. We find that without considering this aspect and examining the fulfilment of section 37 of the Act, the learned CIT(A) deleted the addition on this count. Therefore, we are of the considered view that this aspect of the matter requires fresh consideration, and therefore, we restore this issue to the file of the Jurisdictional AO for *de novo* adjudication, granting one more opportunity to the assessee to furnish all the details/submissions in respect of its claim of motor car and telephone expenses. With the above directions, the impugned order on this issue is set aside, and Ground No.4 raised in Revenue's Appeal is allowed for statistical purposes.

20. In the result, the appeal by the Revenue is allowed for statistical purposes.

Order pronounced in the open Court on 26/09/2025

Sd/-

**NARENDRA KUMAR BILLAIYA
ACCOUNTANT MEMBER**

Sd/-

**SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 26/09/2025

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai