

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "B" Bench, Mumbai.

Before Shri Narender Kumar Choudhry (JM) &
Shri Omkareshwar Chidara (AM)

ITA No. 402/MUM/2025 (Assessment Year : 2014-15)

Basudeo Bajaj HUF 108/116, Vithalwadi 2 nd Floor, Kalbadevi Road Mumbai-400 002.	Vs.	ITO Ward 18(1)(2) Room No. 204 Earnest House Nariman Point Mumbai-400 021.
PAN : AABHB9940F		
Appellant		Respondent

Assessee by	:	Shri Vimal Punmiya
Revenue by	:	Shri Leyaqt Ali Aafaqui
Date of Hearing	:	09/07/2025
Date of pronouncement	:	30/09/2025

O R D E R

Per Omkareshwar Chidara (AM) :-

There are two issues to be adjudicated in this case of Mr. Basudeo Bajaj HUF for A.Y. 2014-15. The first addition made by Ld. AO relates to disallowance of bad debt and the second addition relates to not admitting the interest on loan given by appellant.

2. In this case, the Ld. AO held that the appellant's business is trading in grey fabrics and hence the loan written off given to M/s. Ceratech India Ltd. is not allowable as 'bad debt' under section 36 of the Income Tax Act. The Ld. CIT(A) confirmed the addition stating that conditions mentioned under section 36 are not fulfilled.

3. Aggrieved by the additions made by Ld. AO and order of Ld. CIT(A), the appellant filed an appeal before ITAT with the following grounds of appeal.

1. FIRST GROUND OF APPEAL: - Order Bad In Law And On Facts

1.1. The order passed by the Learned Commissioner of Income Tax (Appeals) (hereinafter referred to as (CIT(A)) u/s 250 of the Income-tax Act, 1961 (the Act) is bad in law and on facts.

2. SECOND GROUNDS OF APPEAL: - ERRONEOUS CONFIRMATION OF DISALLOWANCE OF BAD DEBT U/S 36 OfThe Act

2.1. The learned (CIT(A)) has erred in partly confirming the order of Assessing Officer (AO), by confirming the addition of Rs. 44,04,384/- without considering the facts.

2.2. The learned CIT(A) has erred in upholding the disallowance of write-off of loan given to Ceratech India Limited on the basis that the main business of the appellant is trading in grey fabrics and there is no approval for money lending business.

2.3. The learned CIT(A) has erred in confirming the order of the assessing officer on the basis that lending of advances and bill discounting as business was not mentioned in the tax audit report filed.

2.4. The learned CIT(A) has not applied his mind and thoughtlessly upheld the order passed by the assessing officer.

2.5. The learned CIT(A) has disregarded the submission of the appellant to allow the write-off of bad debt u/s 37 of the Act if it is not allowable u/s 36 of the Act

3. THIRD GROUNDS OF APPEAL: ADDITION OF INTEREST INCOME OF RS. 13,52,708/- ON THE BASIS OF FORM 26AS

3.1. The learned CIT(A) has failed to appreciate the fact that interest income from Mr. Awadh Narayan Singh was updated in Form 26AS after the appellant filed its return of income.

3.2. The learned CIT(A) also failed to appreciate the fact that till date no amount has been received as interest from the said party.

3.3. The learned CIT(A) erred by not directing the assessing officer to give credit for the TPS on interest disclosed by Mr. Awadh Narayan Singh which is appearing in Form 26AS.

4. The Ld. AR of the appellant filed a detailed paper book and demonstrated that they are into bill discounting and finance business also and in this year, the major business activity of appellant is only money-lending. It was argued that even though the business of money-lending was not mentioned in the tax audit report, the books of account show that they are into money lending business also. In fact, there was a TDS on interest receipt relating to the loan given to Avadh Narayan Singh. So, the bad debt relating to “advances” is admissible under section 36 of the IT Act, it was submitted.

5. The Ld. DR has argued that the money lending business was not mentioned in the tax audit report and there is no money-lending licence. Hence, the bad debt is not allowable.

6. Heard both sides. The perusal of the assessment order shows that there is an addition towards "Interest Receivable" from one person who has deducted the tax and the same is reflected in his 26AS form. This fact demonstrates that the appellant is into advancing loans and hence if the conditions for 'bad debt' are satisfied under section 36, the same should be allowed. From the paper book filed by the Ld. AR of the appellant, it is seen that the loans given are reflected and as the same is written off in the books of account and hence the amount not recovered should be allowed as 'bad debt' under section 36 of the Act. This proposition was approved by the Hon'ble Supreme Court decision of TRF Ltd. (323 ITR 397)(SC). Moreover, from the ledger account filed by Ld. AR of the appellant, it is observed that the appellant has admitted receipts of more than Rs. 50 lakhs as 'interest' during this year. Hence, the 'bad debt' claimed by appellant is hereby allowed.

7. The second issue relates to 'interest income' which was accrued to appellant, but the same was not admitted by appellant in the Return of Income. The Ld. AO has mentioned that an amount of Rs. 13,52,708/- as interest from Avadh Narayan Singh is 'accrued' to the appellant and the debtor Avadh Narayan Singh made TDS also. This TDS was reflected in the Form No. 26AS also. Since, the tax audit report filed by the appellant shows that he is following 'mercantile system of accounting', the interest 'accrued' to appellant in this year had to be offered in the current year itself. The Ld. AR of the appellant has argued that, based on 'Real Income Theory', interest would be offered as income only when it is received. But, this theory is applicable, when there is no taxable income to be offered. In our case, there is no dispute that appellant has given loan and that the debtor has deducted TDS on the interest income. The same was reflected in Form 26AS. As the

appellant was following 'mercantile system of accounting', as per tax audit report, the appellant had to offer the interest in this financial year itself, but he can claim credit to the TDS deducted if he has not claimed the same in this year. Hence, the interest accrued in this year on the loan given to Avadh Narayan Singh to the extent of Rs. 13,52,708/- is taxable in this year and the addition made by Ld. AO is confirmed and appellant's appeal is dismissed on this ground.

8. The appeal of appellant is partly allowed.

Order pronounced in the open Court on 30/09/2025.

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

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BY ORDER,
(Assistant Registrar)
ITAT, Mumbai