

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

**BEFORE SHRI SAKTIJIT DEY, VP &  
MS PADMAVATHY S, AM**

**I.T.A. No. 6188/Mum/2025  
(Assessment Year: 2018-19)**

<b>Elcome Technologies Pvt. Ltd.,</b> 6, Ground Floor, Raheja Arcade, Plot No. 61, Sector 11 CBD Belapur, Konkan Bhawan, Thane-400016. <b>PAN: AAACE7023Q</b>	Vs.	<b>DCIT, CC-15(1),,</b> Aayakar Bhavan, M.K. Road, Mumbai-400020.
<b>Assessee)</b>	:	<b>Revenue)</b>

**Assessee by** : Shri Viksit Bhargava a/w Shri  
Kalpesh Unadkat, AR

**Revenue by** : Shri Himanshu Joshi, Sr.-DR

**Date of Hearing** : 02.12.2025

**Date of Pronouncement** : 09.12.2025

**ORDER**

**Per Padmavathy S, AM:**

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 11.08.2025 for Assessment Years (AY) 2018-19. The assessee raised the following grounds of appeal:

*“On the facts and circumstances of the case and in law*

*1. The CIT(A) erred in drawing adverse inferences and violated the principle of natural justice, i.e. the CIT(A) did not provide an opportunity of being heard (including video conferencing), before passing the order.*

*2. The Assessing Officer (AO) and the CIT(A) erred in not allowing the write off for bad debts of Rs. 2,94,66,509 in respect of debt of Council for Scientific and Industrial Research ('CSIR').*

*a. The AO erred in alleging that the bad debt is not allowable, since CSIR was a government entity and a going concern.*

*b. The CIT(A) erred in concluding that the amount due from CSIR had not really become bad and ignored the settled principle that bad debt is allowable for the previous year in which the debt is written off against the debtor account.*

*c. The CIT(A) erred in casting a doubt, which was not even disputed by the AO, on the year of taxation of the invoices issued to CSIR. The CIT(A) failed to appreciate that the Appellant had provided the invoice wise details of the invoices written off, which were offered to tax in the respective year in which invoice/debit note were issued.*

*d. The CIT(A) failed to appreciate that no payment was received till date from CSIR. Even otherwise, if any amount would have been received, the Appellant would have offered to tax under section 41(1) of the Act.*

*3. The CIT(A) erred in not directing the AO to allow the write off for bad debts of Rs. 2,82,75,659 in respect of write off of debt of Alcock Ashdown (Gujarat) Limited. Further, the CIT(A) erred in exceeding his jurisdiction under section 250(4) of the Act, in directing the AO to verify the contentions and vouching documents regarding the allowance of bad debts qua Alcock Ashdown (Gujarat) Limited.*

*4. The CIT(A) erred in not allowing the claim of bad debts corresponding to the service tax paid on services to Mahanadi Coalfield Limited amounting to Rs. 13,72,263. The CIT(A) erred in holding that the Appellant ought to have claimed refund from the sales tax department.*

*5. Without prejudice to ground no. 4 above, the CIT(A) erred in not allowing the write off of service tax paid u/s 37/28 of the Act.*

6. *The CIT(A) erred in not allowing the claim of write off of very old advances in respect of Creaty, Three D Magic Info Solutions Pvt. Ltd. and other balances, aggregating to Rs. 38,55,643 and directing the AO to verify the claim of the Appellant. Further, the CIT(A) erred in exceeding his jurisdiction under section 250(4) in directing the AO to verify the documents filed before the CIT(A).*

7. *The AO and the CIT(A) failed to appreciate that there was no dispute on the actual write off of the balances due from the debtors in the books of account and that such action of write off of debts and the claim thereupon is legally tenable in law.*

8. *The AO erred in not allowing the claim for bad debts, even though the Hon'ble Supreme Court in the case of TRF Ltd. vs. CIT (2010) 323 ITR 397 (SC) have settled the position that once the bad debts are written off in the books of account as irrecoverable, there is no requirement to justify the write off based on the facts of the case.*

9. *The AO and CIT(A) erred in stepping into the shoes of the business decision of the Appellant and dictating when the bad debt should be written off and ignoring the principles laid down by the binding CBDT Circular No. 12/2016 dated May 30, 2016.”*

2. The assessee is a private limited company engaged in the business of distribution of surveying and measuring solutions within the Hexagon Geo Systems Division. The assessee filed the return of income for AY 2018-19 on 29.11.2018 declaring a total income of Rs. 3,61,08,750/-. The case was selected for scrutiny and the statutory notices were duly served on the assessee. The Assessing Officer (AO) noticed that the assessee has claimed a huge amount towards bad-debts, some of which are debited to the P&L A/c and some of which are adjusted against the provision for doubtful debts. The breakup of the amount claimed in the return of income is tabulated as under:

Customer Name/Vendor Name	PAN	Bad Debts Amount Written off out of Opening provisions (Rs.)	Bad Debts Directly Written off by Debiting P&L in Current Financial Year(Rs.)	Total Bad Debts Amount Written off in FY 2017-18 Financial (Rs.)
Alcock Ashdown (Gujarat) Ltd.	AABCA7983J	2,82,75,659		2,82,75,659
CSIR-Centre for Mathematical M	AAATC2716R	2,94,66,509		2,94,66,509
Others	As per list	2,01,89,642	5,35,27,256	13,14,59,066
Three D Magic Info Solution Pvt Ltd		7,04,895		7,04,895
CREATY		10,31,694		10,31,694
Various balance written off			21,19,054	21,19,054
Service tax write off Mahanandi Coalfields Ltd			12,92,496	12,92,496
Other balances		17,36,589	34,11,550	51,48,139

written off (B)				
Total bad debts written off (A+B)		7,96,68,399	5,69,38,806	13,66,07,204

3. The AO out of the total bad-debts claimed did not allow the bad-debts claimed against CSIR-Centre for Mathematical Model amounting to Rs. 2,94,66,509/- and against Alcock Ashdown (Gujarat) Ltd. amounting to Rs. 2,82,75,659/-. The AO also made an addition of Rs. 59,51,501/- towards the difference between the bad-debts claimed in the return of the income and the

details furnished by the assessee. Aggrieved the assessee filed further appeal before the CIT(A). Before the CIT(A) the assessee contended the disallowance made against claim of bad debts pertaining to CSIR-Centre for Mathematical Model and Alcock Ashdown (Gujarat) Ltd. With regard to amount disallowed towards the difference, the assessee submitted before the CIT(A) that the AO has considered incorrect figures to make the addition and that there is no difference in the amount claimed in the return of income. The assessee therefore raised grounds for each of line item of bad debts claimed before the CIT(A). The CIT(A) confirmed the addition made by the AO towards CSIR-Centre for Mathematical Model. The CIT(A) remitted back the rest of line items of disallowance made by the AO for fresh consideration. The assessee is in appeal against the order of the CIT(A).

4. The ld. AR argued that the bad-debts claimed against CSIR-Centre for Mathematical Model was towards invoices raised by the assessee from 2010 to 2015 and the invoice-wise details etc. are submitted before the lower authorities (page 88 of PB). The ld. AR further argued that the AO and the CIT(A) have not disputed the fact that the assessee has offered the income pertaining to the bad-debts now written off in earlier years. The ld. AR drew our attention to the payment follow up communication sent by the assessee (page 98 to 176 of PB) and that the assessee has only written off a portion of the amount receivable as bad-debts. The ld. AR submitted that the findings of the AO that the reason given by CSIR-Centre for Mathematical Model for non-payment are rectifiable errors by the assessee and therefore the same cannot be the reason for write off is factually not correct. The ld AR further submitted that this would be substantiated by the fact that the assessee has not received any payments till date even after more than 10 years. The ld. AR also submitted that in order to claim bad-debts as a deduction,

the assessee is not required to prove that the debt has become bad and the write off in the books of accounts is sufficient. Reliance is placed in this regard on the decision of the Hon'ble Bombay High Court in the case of Desouza Hotels Ltd. vs. ITO [2025] 173 taxmann.com 951 (Bom). With regard the other disallowances which are remitted back by the CIT(A) back to the AO, the ld. AR argued that the CIT(A) has exceeded the jurisdiction u/s 250(4) and that the CIT(A) ought to have obtained the remand report from the AO and should have decided the issue. The ld. AR with regard to the addition of Rs. 59,51,501/- submitted that the AO has incorrectly understood the amount claimed by the assessee and has made the said addition as unexplained. The ld AR accordingly argued that each line item of bad debts claimed by the assessee need to be considered and allowed.

5. The ld. DR on the other hand submitted that the assessee has not properly explained the breakup of the bad-debts claimed in the return of income and has not properly substantiated the claim. The ld. DR accordingly supported the orders of the lower authorities.

6. We heard the parties and perused the material on record. The assessee in the return of income has claimed bad-debts to the tune of Rs. 13,66,07,204/- (refer table in the earlier part of the order). The AO disallowed the bad-debts claimed against two parties and also has made an addition towards difference in the amount of bad-debts unexplained by the assessee. Before the CIT(A) the assessee raised grounds justifying the claim of bad-debts against each of the line items and the assessee also contended that the addition made towards the difference unexplained amount to the tune of Rs. 59,51,501/- is incorrect number misunderstood by the AO. The CIT(A) confirmed the disallowance made towards the bad-debts against CSIR-Centre for Mathematical Model and remitted the rest of the issue back to the

AO. The ld. AR during the course of hearing submitted that the AO has not passed any order giving effect as per the directions of the CIT(A).

7. With regard to the bad-debts pertaining to CSIR-Centre for Mathematical Model, we notice that the assessee has raised invoices way back in 2010 to 2015 and that the assessee has not received the payment till date. We further notice that the assessee has been raising concerns about non-payment and has also responded to the email sent by CSIR-Centre for Mathematical Model where certain defects in the invoices have been highlighted. These facts substantiate the claim of the assessee that the amount receivable from CSIR-Centre for Mathematical Model has remained unrecovered against and therefore the assessee has claimed the bad-debts. It is relevant to note here that the lower authorities have not disputed the fact the assessee has offered the income against which bad debts are now claimed, to tax in the earlier years. It is further relevant to consider the following observations of the Hon'ble Bombay High Court in the case of Desouza Hotels Ltd (supra) where it is held that –

*21. The comparison between the pre amendment and post amendment of Section 36(1)(vii) shows that prior to the amendment the assessee was required to establish that the debt in question had become bad in the previous year. Post amendment it is sufficient if the bad debt or part thereof is written off as irrecoverable in the accounts of the assessee based on commercial expediency.*

*22. In the case of Oman International Bank SAOG (supra) the Division Bench of this Court considered the question of law whether as per the existing provisions even after the amendment w.e.f. 01.04.1989 is it obligatory on the part of the assessee to prove that the debt written off by him is indeed bad debt for the purpose of allowing it under Section 36(1)(vii). The assessee therein had claimed writing of bad debt in the sum of Rs.4,59,60,393/-. The contention of the assessee was that the write off was done by following RBI guidelines was bonafide and as such contention should be allowed. The Appellate Authority was pleased to hold that as per the amended provisions under Section 36(1)(vii), the assessee is not required to establish that the debt had actually become bad and what was required was whether the amount is written off during the year or not. The order of appellate authority was challenged before the tribunal and it was urged on behalf of the revenue that two conditions had to be satisfied before the deduction under Section 36(1)(vii) could be allowed viz.*

- (i) *The debt in respect of which the deduction is claimed, is a bad debt.*
- (ii) *Such debt is written off in the account of assessee for the previous year.*

*However, the assessee contended that one has to look into the intention of the legislature. If the provisions are amended in order to remove hardship or mischief of the pre-amended provision, then the Hyden's Mischief Rule of interpretation should be applied. As per the pre-amended provision, the assessee was required to establish that the debt which was claimed as deduction had become bad during the previous year and Assessing Officer was empowered in terms of Section 36(2) to allow the deduction in another year, if he was of the view that the debt had become in an earlier or later year. The tribunal held that considering the expression "bad debt" in Section 36(1)(vii) strict proof is not required to be established and/or it is uneasy to prove that the debt too has become bad. It would be within the personal knowledge of the businessman whether the debt has become bad or not as long as it is bona fide and no demonstrative proof can be demanded from the assessee to establish that the debt had actually become bad. Writing off a bad debt, is an evidence on the part of the assessee with whom the information rests and is a sufficient requirement of the amended provision.*

**23.** *This Court in Paragraph-6 of above decision has observed as follows:*

*6. A comparison, therefore, between the provisions as it stood and after its amendment with effect from 1st April, 1989 would show that prior to the amendment the assessee was required to establish that the debt in question had become bad in the previous year. Subsequent to the amendment from the language of the section it is sufficient if the bad debt or part thereof is written off as irrecoverable in the accounts of the assessee based on commercial expediency. If we apply the Rule of interpretation as spelt out in Hyden's case, it would lead to an irresistible conclusion, that the Legislature by the amendment has sought to exclude the burden on the assessee to prove that the debt is bad debt and leaves it to the commercial wisdom of the assessee to treat the debt as bad, once it is written off as irrecoverable in the accounts of the assessee."*

**24.** *The Court also referred to the Circular No.551 dated 23.01.1990 and More particularly Paragraph 6.6 of the said Circular and it was observed that the Circular of the Board clearly spells out that it is to eliminate the dispute in the matter of determining the year in which the bad debt is written off as irrecoverable. If in spite of this provision the assessee is again called upon to establish that the debt has become bad debt, the object behind the amendment will not be achieved. The legislative intent appears to be to avoid litigation and to do away with disputes regarding the allowability of bad debts as a deduction in computing the income of an assessee. The dispute regarding the year in which the debt has to be allowed as a deduction has been resolved by the clear statement of the amended law that the deduction shall be allowed in the year in which the debt has been written off as irrecoverable. Considering these aspects, it would be clear that there is no burden now on the assessee to establish that in fact the debt has become bad. If this interpretation is read with the Board's circular it would be clear that the Board's*

circular reflects this very object which the Legislature had in its mind while amending the provision. The amendment clearly was brought to cure a defect and/or in other words to avoid the mischief. This Court then referred to the dictionary meaning of the word "bad debt". In Chambers 20<sup>th</sup> Century Dictionary "bad debt" is referred to as 'a debt that cannot be recovered'. The dictionary meaning of 'bad debt' reflected in Mitra's Legal and Commercial Dictionary was also quoted wherein the 'bad debt' is referred to as a debt become bad when the creditor has no reasonable chance of recovering it from the debtor. This Court also noted the meaning of 'bad debt' reflected on the Law Laxicon wherein it is explained that debt which cannot be reasonably be collected. A debt about which there is no reasonable expectation recovery; a debt believed to be unrecoverable.

25. Analyzing the definition of 'bad debt' and Section 36(1)(vii) in Paragraph it was observed as follows:

**"11. All this would indicate that when the assessee treats the debt as a bad debt in his books the decision which has to be a business or commercial decision and not whimsical or fanciful. The decision must be based on material that the debt is not recoverable. The decision must be bona fide.** The difference between the position, pre-amendment and post amendment would be that the burden is no longer on the assessee and can be claimed in the year it is written off in the books of account as irrecoverable. The A.O if he is to disallow the debt as a bad debt must arrive at a conclusion that the decision was not bona fide. The A.O only in those circumstances and to that extent may interfere. All that the assessee must do is to be prima facie satisfied based on the information available that the debt is bad and that would be sufficient requirement of the amended provisions."

26. The apex Court in the case of T.R.F. Ltd. (supra) considered the scope of Section 36(1)(vii) prior to 01.04.1989 and post 01.04.1989 on account of amendment to the said Section. After analyzing the said provisions prior to amendment and post amendment it was observed that after 01.04.1989, it is not necessary for assessee to establish that the debt, in fact, has become irrecoverable; it is enough if bad debt is written off as irrecoverable in the accounts of assessee. The assessing officer has not examined whether the debt has in fact, been written off in accounts of the assessee. When bad debt occurs, the bad debt account is debited and the customer's account is credited, thus, closing the account of the customer. In the case of companies, the provision is deducted from sundry debtors.

27. Learned counsel for the Appellant has heavily relied upon the decision of the apex Court in the case of Khyati Realtors Ltd. (supra) wherein the decision of this Court was challenged by the revenue. This Court had dismissed the Appeal preferred by the revenue challenging the Judgment of Income Tax Tribunal. The tribunal had come to the conclusion that the transaction undertaken by the assessee was part of business activities. The amount had become irrecoverable and in view of the matter the loss was to assessee's business and was required to be allowed under Section 37(1) of the Act.

28. The Hon'ble Supreme Court analysed Section 36(1)(vii) and Section 37 of the Income Tax Act. It was observed that merely stating a bad and doubtful debt as irrecoverable write off without appropriate treatment in the accounts, as well as non

*compliance with the conditions in Section 36(1)(vii), 36(2) and explanation to Section 36(1)(vii) would not entitle the assessee to claim the deduction. The Apex Court referred to the decision in the case is also referred to the decision in T.R.F. Ltd. (supra). The apex Court also referred to the decision of in the case of Catholic Syrian Bank Ltd. v. Commissioner of Income-tax AIR 2012 SC 1538/[2012] 18 taxmann.com 282/206 Taxman 182/343 ITR 270 (SC) and Southern Technologies Ltd. v. Jt. CIT [2010] 187 Taxman 346/320 ITR 577 (SC) and by referring to the said decisions it was observed in Paragraph 18 as follows:*

*" 18. It is evident from the above rulings of this court, that:*

- (i) The amount of any bad debt or part thereof has to be written-off as irrecoverable in the accounts of the assessee for the previous year;*
- (ii) Such bad debt or part of it written-off as irrecoverable in the accounts of the assessee cannot include any provision for bad and doubtful debts made in the accounts of the assessee;*
- (iii) No deduction is allowable unless the debt or part of it "has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year", or represents money lent in the ordinary course of the business of banking or moneylending which is carried on by the assessee;*
- (iv) The assessee is obliged to prove to the AO that the case satisfies the ingredients of Section 36(1)(vii) as well as Section 36(2) of the Act."*

**29.& 30. \*\*\*\*\***

*31. The legislature by amendment has sought to exclude the burden on the assessee to prove that the debt is bad debt. The subsequent circulars reflects the object of amendment. The object of provision is to avoid litigation and to do away with disputes regarding allowing bad debts as deduction in computing income of assessee as observed by this Court in the decision referred above.*

*32. Considering the aforesaid circumstances we do not find any reason to interfere in the order dated 11.01.2013 passed by the Income Tax Appellate Tribunal. The appeal would not sustain and is required to be dismissed.*

8. From the above observations it is clear that if the claim of the assessee towards bad debts is prima facie bonafide the AO cannot interfere in the decision of the assessee to write off the debts as bad. Further in the present case the assessee has satisfied all the requirements as has been laid by the Hon'ble Apex Court with

regard to the claim of bad debts. Accordingly we are of the considered view that the disallowance of claim of bad debts against the invoices raised on CSIR-Centre for Mathematical Model is not sustainable. The AO is directed to delete the disallowance made in this regard.

9. With regard to other disallowances, we notice that the CIT(A) has remanded the issue back to the AO on the ground that the assessee has filed certain additional documentary evidences and submissions in support of the claim. The details furnished by the assessee before the CIT(A) have not been examined by the lower authorities and therefore we deem it fit to remit the issue back to the AO for fresh examination. The AO is further directed to consider the correct amount of bad debts written off by the assessee as per the breakup except CSIR-Centre for Mathematical Model which is already allowed by us herein above and examine allowability on merits in accordance with law.

10. In result, appeal of the assessee is partly allowed.

*Order pronounced in the open court on 09-12-2025.*

***Sd/-***  
**(SAKTIJIT DEY)**  
**Vice-President**

*\*SK, Sr. PS*

***Sd/-***  
**(PADMAVATHY S)**  
**Accountant Member**

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**