

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCH ' B '**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

I.T. A. No.937/Bang/2014  
(Assessment Year : 2010-11)

**M/s. Inknowtech Pvt. Ltd.,**  
A-306, Block III, STPI Complex,  
Hosur Road, Keonics Electronic City,  
Bangalore.

.... Appellant.

Vs.

**Dy. Commissioner of Income Tax,**  
Circle 11(4), Bangalore.

..... Respondent.

Appellant By : Shri B.P. Rao, C.A.

Respondent By : Shri S.R. Kuppuswamy, JCIT (D.R)

Date of Hearing : 1.6.2016.

Date of Pronouncement : 30.06.2016.

**O R D E R**

**Per Shri Vijay Pal Rao, J.M. :**

This appeal by the assessee is directed against the order dt.10.3.2014  
of Commissioner of Income Tax for the Assessment Year 2010-11.

2. The assessee has raised the following grounds :

1. Order of the Hon'ble Commissioner of Income Tax (Appeals)-I (hereinafter referred to as CIT (A), in so far as it is against the appellant opposed to law, equity, probability and circumstances of the case.
2. The appellant had filed the copy of the ledger extract of Bad Debts with the assessing officer which clearly explained the names of the debtors being written off as bad debts, namely -

Name of the Debtor	Amount Rs.
Cisco Systems India Pvt Ltd	8,764
Ifoon - Belgium	24,041
Connoisseur Electronics Lanka (Pvt) Ltd	68,758
Radiant Infosystmes Pvt Ltd	2,91,417
<b>TOTAL</b>	<b>3 92,980</b>

The above debts had arisen in respect of sales made during the financial year 2007-08 and the appellant, in spite of best efforts, could not collect the same. Hence the appellant has written off the said debts as Bad Debts during the financial year 2010-11. Since the conditions required by section 36(2) is satisfied, the bad debts written off are allowable under section 36(1)(vii).

3. The Hon' ble CIT (A) should have allowed the Bad Debts amount since the Assessing Officer had not taken cognizance of the ledger extract submitted and did not make any further enquiry before disallowing the bad debts. Further the Assessing Officer has not stated in the assessment order that the Bad Debts is being disallowed since the assessee has not established that the amount written off was offered as income in either earlier years or in the assessment year.
4. In the case of *Commissioner of Income-tax, Kanpur vs. Dwarika Industrial Development & Chains (P.) Ltd., [2010] 325 ITR 211* the Hon' ble High Court of Allahabad, on similar facts, upheld the decision of the Commissioner (Appeals) / Tribunal to delete the addition made by the Assessing Officer on account of bad debts written off, on the ground that the Assessing Officer had not pointed out that the said debt had not been taken into account in computing income in any earlier or previous year.

For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and justice rendered.ö

3. The assessee is a company and filed its return of income for the Assessment Year under consideration on 19.9.2010 declaring a total income of Rs.1,89,98,180. The Assessing Officer has completed the assessment under Section 144 of the Income Tax Act, 1961 (in short 'the Act') by disallowing the commission expenses, professional charges and bad debts of Rs.3,92,980. The assessee challenged the action of the Assessing Officer before the CIT (Appeals). The CIT (Appeals) deleted the addition made by the Assessing Officer on account of disallowance of commission expenses and professional charges. However, the disallowance of bad debts was confirmed by the CIT (Appeals) on the ground that the assessee has not satisfied required condition under Section 36(2) of the Act.

4. Before us, the learned Authorised Representative of the assessee has submitted that since the assessment was passed ex-parte therefore, the assessee could not furnish relevant evidence before the Assessing Officer in support of the claim of bad debts. He has further submitted that the

assessee has now filed the additional evidence in support of the claim of bad debts and to prove that the amount of bad debts was claimed by the assessee was already considered in the income during the earlier year and therefore once the assessee has written off the bad debts the claim is allowable. In support of his contention he has relied upon the decision of Allahabad High Court in the case of **CIT & Another Vs. Dwaraka Industrial Development & Chains (P) Ltd.** 325 ITR 211. Thus the learned Authorised Representative has pleaded that the additional evidence filed by the assessee may be admitted in support of the claim and the matter may be remitted to the record of the Assessing Officer for examination of the evidence filed by the assessee.

5. On the other hand, the learned Departmental Representative has vehemently opposed to the additional evidence filed by the assessee at this stage and submitted that when the assessee was given sufficient opportunity by the Assessing Officer as well as the CIT (Appeals) then the additional evidence filed by the assessee cannot be accepted. He has relied upon the orders of the authorities below.

6. We have considered the rival submissions as well as the relevant material on record. The assessment was framed ex-parte under Section 144 of the Act. On appeal, the CIT (Appeals) has allowed the claim of the assessee in respect of commission expenses of R.2,56,73,400 as well as professional charges of Rs.1,10,67,099. However, the CIT (Appeals) has confirmed the disallowance of claim of bad debts of Rs.3,92,980. Therefore, the default on the part of the assessee in not presenting before the Assessing Officer has been admonished by the CIT (Appeals). There is no dispute that the assessee has written off the bad debts of Rs.3,92,980. However, the authorities below have disallowed the claim for want of record to show that the assessee has already considered this amount as part of income in the earlier assessment year. Thus the limited scope of verification is whether the amount written off by the assessee can be allowed as bad debts or as a business loss if the same is relating to the unrecoverable debts or the amount otherwise paid in the course of business of the assessee. Since the assessee has filed the additional evidence in support of the claim which has not been examined by the authorities below therefore, in the facts and circumstances of the

case and in the interest of justice, we set aside this issue to the record of the Assessing Officer for verification and examination of the additional evidence produced by the assessee before us and then decide this issue in accordance with law. Needless to say, the assessee shall be afforded an opportunity of hearing before deciding the issue.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on the 30th day of June, 2016.

Sd/-  
**(INTURI RAMA RAO)**  
Accountant Member

Sd/-  
**(VIJAY PAL RAO)**  
Judicial Member

\*Reddy gp

Copy to :

1. Appellant
2. Respondent
3. C.I.T.
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard File.

By Order

Asst. Registrar, ITAT, Bangalore