

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE 'A' BENCH, BANGALORE**

**BEFORE SHRI N.V.VASUDEVAN, JUDICIAL MEMBER
AND
SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER**

**ITA No.1220(BNG.)/2013
(Assessment year : 2008-09)**

The Income-tax Officer
Ward-11(1),
Bangalore

Appellant

Vs

M/s Accusoft Technologies Pvt.Ltd.
No.1/5, Santosh Complex, Armugam Circle,
Basavanagudi,
Bangalore-560 004
Pan No.BLRA13553B

Respondent

**Revenue by : Shri P.Dhivahar, JCIT
Assessee by : Shri S.Ananthan, CA**

Date of hearing : 12-02-2015

Date of pronouncement : 11-03-2015

ORDER

PER ABRAHAM P GEORGE, AM:

In this appeal filed by the revenue its grievance is that CIT(A) allowed set off of business loss against a rental income and income from other sources.

2. Assessee had filed its return for the impugned assessment years declaring income of Rs.21,16,920/-. During the course of assessment proceedings, it was noted by the AO that assessee had claimed business

expenditure of Rs.31,70,933/-against which there was no business receipts. Hence, as per the learned AO the claim of expenditure of Rs.31,70,933/- could not be allowed. He computed the income of the assessee considering the income from house property and capital gains as returned by the assessee, without allowing set off of business expenditure claimed as business loss.

3. Aggrieved assessee moved in appeal before the CIT(A). Argument of the assessee was that its business had not closed down. As per the assessee it was doing consultancy and it was not possible to have business income every year. Just because there were no business receipts genuine business expenditure ought not have been allowed. As per assessee it had not closed down its business. Reliance was placed on the decision of Co-ordinate Bench in the case of KNP Securities Pvt. Ltd. Vs ACIT (2010) 1 ITR (Trib.) 130 (Mumbai). Learned CIT(A) was appreciative of the above contention of the assessee. As per the CIT(A), assessee was only claiming operative and other business expenditure which had resulted in the loss. According to him the claim of loss could not be disallowed solely for a reason that there was no business income during the relevant previous year.

4. Now before us learned DR strongly assailing the order of the learned CIT(A) submitted that assessee had no business income for a number of years and therefore, its contention that it had carried on any business was incorrect. As per the learned DR assessee was only trying to depress its income under other heads by showing an exaggerated business loss.

5. Per contra, learned DR submitted that director's report, audited accounts, balance sheet and its P&L account for the year ending 31-03-2013, would show assessee had income from its business. Reliance was also placed on an agreement dated 12-11-2014 with one M/s Marks and Spencer and another agreement dated 10-09-2014 with M/s iMeridian Technologies, in this regard.

6. We have perused the orders and heard the rival contentions. The directors report of the assessee for financial year 2013-14 does show that the assessee was carrying on business as consultants. For the year ending 31-03-2014, assessee had income of Rs.3,40,000/- from its operations. Thus, it has been clearly brought out by the assessee that it had no intention of closing down its business. A temporary lull in the business would not be a reason for disallowing a claim of business

expenditure. Assessee has been able to demonstrate that it had no intention to stop the business. The genuineness of the expenditure was not doubted by the AO. In such circumstances, we are of the opinion, that CIT(A) was justified in directing the AO to allow the claim of business loss, though, there was no corresponding business income during the relevant previous year. We do not find any reason to interfere with the order of the CIT(A).

7. In the result, the appeal of the revenue stands dismissed.

Order pronounced in the open Court on the

Sd/-
(N.V.VASUDEVAN)
JUDICIAL MEMBER
Bangalore:
D a t e d : 11-03-2015
am
Copy to :

Sd/-
(ABRAHAM P GEORGE)
ACCOUNTANT MEMBER

Appellant
Respondent
CIT(A)-IV, Bangalore.
CIT
DR, ITAT, Bangalore.
Guard file (1+1)

Asst. Registrar

ITAT, Bangalore