

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI
BEFORE SHRI I.C.SUDHIR, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 4730/Del/2014
(Assessment Year: 2010-11)

MEC Electric Contracts Pvt Ltd, 505, Mohan Tower, Wazir Pur Commercial Complex, New Delhi, PAN:AAACM0388A	Vs.	DCIT, Circle-6(1), New Delhi
(Appellant)		(Respondent)

Assessee by :	Sh. Sandeep Kumar, CA
Revenue by:	Sh. Rajesh Kumar, Sr. DR
Date of Hearing	30/05/2017
Date of pronouncement	31/05/2017

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by assessee against the order of Ld. CIT (A) –IX, New Delhi dated 10/06/2014 raising the solitary ground that confirmation of disallowances of Rs 228026/- on account of disallowance of right of under recovered. ESI/PF from sundry debtors being bad debts on hypothetical grounds and therefore the order of the lower authorities are against the provisions of the income tax act.
2. Brief facts of the case are that assessee company is engaged in the business of electric contractor and filed its return of income on 05/10/2010 declaring income of Rs. 6 496980/-. Assessment under section 143 (3) of the act was made on 19/02/2013 at an income of Rs. 6 893100/-. Amongst other addition a sum of Rs. 228026/- on account of amount outstanding from principal on account of PF / ESI written off was disallowed by AO and Confirmed by CIT (A) and therefore assessee is in appeal before us.
3. The Ld. authorized representative submitted that that assessee is engaged in the business as a contract and therefore it provides manpower to carry on installation job work at different sites. If the contractor is not registered under the respective labour law, such as provident fund and ESI then the principle of the appellant are required to pay the above dues to respective government authorities. The principles of the appellant have deducted the amounts on account of above dues from the bills raised by the appellant and have not been paid. Therefore, assessee submitted the

details of these accounts w.e.f. 01/04/2005 to 31/03/2010 and stated that a sum of Rs. 228026. Recoverable from its debtors have been written off in its books of account. Therefore, the above sum is deductible as bad debt as it fulfills the conditions prescribed under section 36(vii) and 36(2) of the act. He therefore submitted that that lower authorities have grossly erred in not allowing the above sum.

4. The Ld. departmental representative vehemently contested that the above sum is on account of provident fund and ESI to be deposited by the assessee and therefore it cannot be held to be bad debt. He therefore vehemently supported the orders of the lower authorities.
5. We have carefully considered the rival contentions. The issue involved here is that assessee being a contract; it raises a bill for services rendered on its principals. While making payment to the assessee, they deduct amounts pertaining to provident fund and ESI on behalf of assessee. The balance is paid to the assessee. The assessee is specifically stated that the assessee on its own has already paid the above dues and therefore it pursued the recovery of deduction made from its principals. Such sum would not be recovered and therefore sums of Rs. 2.28 lakhs were written off in its books of accounts. It is undisputed that that some have been debited to the profit and loss account and the account of the principal have been knocked off. It is also undisputed that at the time of bills raised by assessee the full sum is credited to the profit and loss account, as income. In view of above facts it is apparent that a debt was due to the assessee from its principal and it was written off in the books of accounts and claimed as bad debts. In view of this we are of the opinion that the claim of the assessee fulfils all the conditions prescribed under section 36 (1) (vii) read with section 36(2) of the act. Hence, we reverse the finding of the Ld. CIT (A) and direct the AO to delete the disallowance of Rs. 2.28 lakhs on account of bad debts.
6. In the result, the solitary ground of appeal of the assessee is allowed and hence the appeal of the assessee is allowed.

Order pronounced in the open court on 31/05/2017.

-Sd/-

**(I.C.SUDHIR)
JUDICIAL MEMBER**

-Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated: 31/05/2017
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi