

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "B" KOLKATA**

Before **Shri N.V. Vasudevan, Judicial Member** and
Shri Waseem Ahmed, Accountant Member

ITA No.116/Kol/2013 Assessment Year :2006-07

Eastern General Industries Ltd., 90/31, Diamind Harbour Road, Kolkata -700038 [PAN No.AACE 7750 J]	V/s.	DCIT, Circle-10, Aaykar Bhawan, P-7, Chowringhee Square, Kolkata – 700 069
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Mrs. Nilima Joshi, FCA
प्रत्यर्थी की ओर से/By Respondent	Shri Alok Nag, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	05-10-2015
घोषणा की तारीख/Date of Pronouncement	24-11-2015

आदेश /O R D E R

PER Waseem Ahmed, Accountant Member:-

This appeal by the assessee is arising out of order of Commissioner of Income Tax (Appeals)-XII, Kolkata in appeal No.582/CIT(A)-XII/Cir-10/08-09 dated 29.11.2011. Assessment was framed by DCIT, Circle-10, Kolkata u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') vide his order dated 28.11.2008 for assessment year 2006-07.

2. Issue raised by assessee in this appeal is that Ld. CIT(A) has erred in confirming the order of Assessing Officer by not allowing the claim of bad debt/business assets/inventory etc.,

3. Briefly stated facts are that assessee is a Limited Company and engaged in the business of manufacturing of leather goods, marble block and

luffer and trading of tea. During the year under consideration, assessee has written off certain items as bad debts in the audited financial statements as detailed under :

1) Trading Debts	Rs.	4,69,381.00
2) Loss of business assets	Rs.	1,22,354.00
3) Obsolete Inventories	Rs.	<u>3,91,111.00</u>
Total Rs.		<u>9,82,846.00</u>

The AO called upon the assessee to submit the detail breakup of the business assets, obsolete inventories and the name and addresses of the trading debtors. The assessee submitted that the loss of the business assets includes advances for expenses, sales tax deposit, equipments, stores, cash, balance in UCO bank, united bank etc. As regards the obsolete inventories, it was submitted that it represents the old trading stocks of dry flowers which has been carried over in the financial statements since many years. The AO also sought the clarification from the assessee regarding the loss of business assets, obsolete inventories stating that how and why the above items will be bad as these amounts have never been shown as income in earlier years. According to the AO, the assessee failed to substantiate with necessary details regarding the fact that it was taken as income in the earlier years. Therefore, the AO has disregarded the claim of the assessee and added the aforesaid bad debts to the total income of the assessee.

4. Aggrieved, assessee preferred appeal before Ld. CIT(A) who confirmed the order of the AO by observing in para-5 as under:-

"5...The A.O in his assessment order has given the finding that the assessee has written off total Rs.11,80,212/- under the head bad debt. But when the AO has asked for the details of bad debt the assessee submitted the details which includes cash in accounts in UCO Bank, United bank of India, cheques and drafts in transit of various parties. It also includes packing materials of Rs.391111/- equipment of Rs.8021/-, stores of Rs.10870/- and cash in different banks. During the appellate proceeding the AR could not justify the inclusion of cash in different bank accounts in bad debt. Further, for declaring bad debt the item so claimed must have included as income in previous years. But eh AR could not bring anything on record showing in which previous years such items as discussed above were shown included as income. Therefore, assessee's appeal on ground no. 2 is dismissed. "

5. Now aggrieved by this order of Ld. CIT(A) assessee is in second appeal before us on the following grounds:-

"1. That the Ld CIT(A) was unjustified in nor allowing the claim of bad debt of Rs.4,69,381 when the evidence in support of the claim was furnished before him.

2. That the Ld CIT(A) was unjustified in nor allowing the loss of business assets claimed as business loss at Rs.1,22,354/- by wrongly considering the claim as claim of bad-debt.

3. That the Ld CIT(A) was unjustified in nor allowing the claim of obsolete inventories written off at Rs.3,91,111/ by wrongly considering the claim as claim of bad debt.

4. That the Ld CIT(A) was unjustified in dismissing the ground No. 3 of the grounds of appeal filed before him by wrongly holding it as a consequential ground though in this ground the appellant had objected to the illegal adjustment by the A.O of the fund of Rs.63,273/- of this year against the alleged demand of the same amount for the asstt. Year 2001-02 without giving the intimation in writing to the appellant as provided in Section 245 of the I.T. Act and which demand does not exist according to the records of the appellant."

Mrs Nilam Joshi, Ld. Authorized Representative appearing on behalf of assessee and Shri Alok Nag, Ld. Departmental Representative appearing on behalf of Revenue.

6. We have heard rival parties and perused the materials available on record. Before us Ld. AR submitted paper book containing pages 1 to 49. We observe from the order of Assessing Officer that items which were written off as bad debt were disallowed on the ground that assessee failed to furnish the relevant details for the year in which such bad debts were shown as income of assessee and same was confirmed by Ld. CIT(A). However at the time of hearing Ld. AR drew our attention at pages 43 to 46 of the paper book, wherein sale ledger of the parties to whom the sales were made in the financial year 2004-05 & 2005-06 respectively for an amount of ₹ 4,69,381/-. The Ld. AR submitted that these details were filed before the authorities below. It is also evident from page 18 of the paper book where a detailed chart of party-wise sale along with the relevant previous years in which they were accounted was placed. As regards the loss of business asset, the assessee submitted the details of those assets at page 18 of the paper book and claimed that none of the assets was recoverable. We find that all the business assets are on revenue account. As regards the obsolete inventory for an

amount of Rs.3,91,111/-, it was submitted that assessee has purchased dry flowers for more than five years back and purpose of these dry flower was to sale to the parties. However, no party came to buy that product and condition of the dry flower has been deteriorated over a period of time. Therefore, these are written off as obsolete material. The quantitative of details of the dry flower is placed on pages 19 of the paper book. From the aforesaid discussion, we infer that the bad debt written off has been treated as income of the earlier year and were written off as per the provision of Sec. 36(1)(vii) of the Act. Now as far as writing off the business assets and obsolete inventories are concerned we find that these items are on revenue account as shown by the assessee and nothing was recoverable out of those assets. All the above items were duly written off in the books of accounts and certified by a qualified auditor of the company. There was no adverse comment in the audit report of the auditor. In view of above and considering the facts and circumstances of the case, we allow this ground of assessee's appeal.

7. In the result, appeal of assessee is allowed.

Order pronounced in the open court 24/11/2015

Sd/-
(N.V.Vasudevan)
(Judicial Member)
Kolkata,
*Dkp

Sd/-
(Waseem Ahmed)
(Accountant Member)

दिनांक:- 24/11/2015 कोलकाता ।

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Eastern General Inds. Ltd. 90/31, Diamond Harbour Rd. Kol-38
2. प्रत्यर्थी/Respondent-DCIT, Cir-10, Aaykar Bhawan, P-7, Chowringhee Sqr. Kol-69
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

By order/आदेश से,

/True Copy/

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।