



* **HIGH COURT OF DELHI : NEW DELHI**

ITA No.410 of 2007

% Judgment reserved on: 25th April, 2007

Judgment delivered on: 4th May, 2007

Commissioner of Income Tax
Delhi-VIII, New Delhi Appellant

Through: Ms.P.L.Bansal, Adv.

Vs.

Sawhney Exports
B-183, Okhla Industrial Area,
Phase-I, New Delhi Respondent

Through: None.

Coram:

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE V.B. GUPTA

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported in the Digest? No



V.B. GUPTA, J.

The short question raised in this appeal filed by Revenue is as to whether the Income Tax Appellate Tribunal (in short as 'Tribunal') was right in deleting the addition of Rs.31,62,238/- made by the Assessing Officer with regard to the deduction claimed by Assessee for bad debts under Section 36(1)(vii) of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

2. The Assessee is engaged in the business of exports of garments and the payments were being received in foreign exchange. For assessment year 1997-98, Assessee filed return claiming bad debts amounting to Rs.1,25,36,852/-. The Reserve Bank of India had allowed permission in respect of sum of Rs.90,36,518/- to be written off in the books of accounts. In respect of balance amount of Rs.31,62,238/-, the Assessing Officer denied the benefit of writing off the bad debts since Assessee has not furnished any evidence to this effect.



3. In appeal filed by the Assessee, the Commissioner of Income Tax (Appeal) held that amount of Rs.31,62,238/- has been written off during the year and the same should be allowed as deduction, even though the approval from the Reserve Bank of India has been received subsequently and the Assessing Officer has himself allowed the claim for the balance amount, even though approval has been received after the close of the previous year. It was further held that the approval from Reserve Bank of India is not mandatory condition for writing off, under the provisions of the Act and as such addition of Rs.31,62,238/- was deleted.

4. The Revenue challenged the order of Commissioner of Income Tax (Appeal) and the Tribunal vide impugned order dated 25th August, 2006 dismissed the appeal filed by the Revenue.

5. It has been contended by learned counsel for the Revenue that mere entry in the books of accounts "writing off the debts" is not sufficient to make a



claim for deduction under Section 36(1)(vii) of the Act and the onus is still on the Assessee to prove that the debts has become irrecoverable beyond doubt.

6. It is apparent from the record that Reserve Bank of India had earlier given an approval for writing off a sum of Rs.90,36,518/- vide their letter dated 20th March, 1998 i.e. subsequent to the previous year relevant to the assessment year under consideration. The Assessee's claim for writing off the remaining amount of Rs.31,62,238/- ought to have been considered by the Assessing Officer in as much as both the approvals have been received subsequent to the previous year relevant to the assessment year. Besides this, as per provisions of Section 36(1)(vii) of the Act, the Assessee is required to write off bad debts in its books of accounts which have been written off during the previous year relevant to the assessment year.

7. Hence, the Tribunal was right in deleting this addition of Rs.31,62,238/- made by the Assessing



(6)

Officer and thus there is no infirmity in the order passed by the Tribunal and from the facts and circumstances of the case we find that no substantial question of law arises for our consideration in this case.

8. Accordingly, the appeal is dismissed.

(V. B. GUPTA)
JUDGE

(MADAN B. LOKUR)
JUDGE

May 4, 2007
rs