



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

**ITA No.570 of 2007**

% Judgment reserved on: 5<sup>th</sup> July, 2007

Judgment delivered on: 11<sup>th</sup> July, 2007

**COMMISSIONER OF INCOME TAX  
DELHI-IV, NEW DELHI**

..... Appellant

Through: Ms. P.L. Bansal with  
Mr. Vishnu Sharma, Advs.

Vs.

**IFCI VENTURE CAPITAL FUNDS LTD.  
E-216, 3<sup>rd</sup> FLOOR, EAST OF KAILASH,  
NEW DELHI**

..... Respondent

Through: None.

Coram:

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

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| 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.**

By way of the present appeal, Revenue has challenged



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the impugned order dated 8<sup>th</sup> September, 2006 passed by Income Tax Appellate Tribunal (for short as 'Tribunal') in ITA No.2349/Del/2002 for the Assessment Year 1998-99, vide which the claim of the Assessee was allowed under Section 36(1)(vii) read with Section 36(2) of the Income Tax Act, 1961 (for short as 'Act').

2. The Assessee in the present case is engaged in the business of providing loans to Entrepreneurs and public finance institutions. During the relevant financial year, the Assessee claimed bad debts written off in respect of amount due along with interest due there on from Sh. S.C. Chawla, B.R. Agarwal, G. Sampath, M/s. Decan Petroleum Ltd. and M/s. Kei Graphics Pvt. Ltd. totaling to Rs.78,72,189/-. In the assessment proceedings it was held by the Assessing Officer that since the Assessee has filed legal suits for recovery thus there is some hope of recovery of debts and the debts have not become bad completely. Though the loans were granted in the year 1980, the Assessee was unable to recover the outstanding sum as well as interest and service charges due thereon, the Assessing Officer held that since there is possibility of recovering the bad debts,



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the claim is not allowable.

3. The Assessee filed an appeal against the order of Assessing Officer. The Commissioner of Income Tax (Appeal) found no justification in the disallowance of the claim of the bad debts so made by the Assessing Officer and accordingly the same was directed to be deleted.

4. Aggrieved with the order passed by the Commissioner of Income Tax (Appeal), the Revenue challenged that order before the Tribunal. The Tribunal dismissed the appeal filed by the Revenue and thus the Revenue is before this Court.

5. It has been contended by learned counsel for the Revenue that as per the provisions of Section 36(2) of the Act, no deduction is allowable to the Assessee unless such debt has been taken into account in computing the income of the Assessee of the previous year in which, such debt has been written off for or of an earlier previous year, or represents money lent in the ordinary course of business of banking or money lending carried on by the Assessee and since the amount represented the loan advanced by the Assessee to the parties and that was not in the course of



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business or money lending as such provisions of Sections 36(2) have not been satisfied in this case.

6. As per provisions of Section 36(1)(vii) of the Act, as amended w.e.f. 1<sup>st</sup> April, 1989, the Assessee is not required to establish that the concerned debt has actually become bad in the relevant year for the purpose of claiming deduction under the Section and the only requirement for claiming this deduction is that the Assessee has to write off the relevant debts in its books of accounts treating the same as bad.

7. In the present case, there is a finding of fact by the Tribunal that since the amount has been written off in the accounts, the Assessee is no more required to prove whether the amount has become bad during the year or not. The write off is bona fide.

8. Under the circumstance, we hold that the Assessee is duly entitled for deduction of the sum of Rs.78,72,189/- on account of bad debts and we do not find any infirmity in the reasoning given by the Tribunal on this point and as such no substantial question of law arises in this case for our




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consideration and the appeal filed by the Revenue is not maintainable and the same is hereby dismissed.

  
(V. B. GUPTA)  
JUDGE

July 11, 2007  
rs

  
(MADAN B. LOKUR)  
JUDGE