



6

% 10.12.2009

Present : Mr.N.P.Sahni and Mr.P.C.Yadav, Advocates for the Appellant.
Mr.C.S.Aggarwal, Sr.Advocate with Mr.Prakash Kumar, Advocate for the Respondent.

+ **CM.APPL.No.17482/2009(for delay) in ITA No.1332/2009**

*

Delay in re-filing the appeal is condoned. The application is disposed of.

ITA No.1332/2009

The Revenue in this appeal is seeking to raise the following question:

“1. Whether the I.T.A.T. was correct in law in upholding the C.I.T. (Appeals) Order and confirming the deletion of addition of Rs.93,40,308/- made by the Assessing Officer on account of disallowance of deduction u/s. 36 (1) (vii) of the Income Tax Act, 1961?”

The Respondent-Assessee had written off certain debts as bad debts as per the accounting policy of the Respondent which is followed globally. If the debt is not recoverable within 360 days it



is written off as bad debt. In the Assessment Year 2002-2003, the debts which were written off are related to the years 1997-1998 to 2000 - 2001. The Assessing Officer disallowed the same, however, the Commissioner of Income Tax (Appeals) went into the question and found that the bad debts had arisen on account of delay in completion of project, disputes with clients, penalty clauses imposed by the clients, reimbursement disputed and not paid by the client, delinquency or bankruptcy of the clients etc.

The Commissioner of Income Tax analysed the various accounts of the parties in respect of whom the amounts were written off. It had been noted by him that in respect of amounts written off in case of parties having balance less than Rs.1,00,000/- (rupees one lakh) in each case, the invoices were raised by the company in years as early as in Assessment Year 1997 - 1998 and subsequent years. In respect of clients where amount was more than Rs.1,00,000/- (rupees one lakh) the same related to the Assessment Years 1997 - 1998 and 2000-2001. He also found that in all the cases of write off the specific balance relating to a transaction of a specific party had been identified and the amount represented by the unpaid balance had alone been considered for write off.

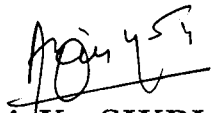


Relying on *CIT vs. Auto Meters Ltd. (2008)*

Taxman 286 (Delhi), CIT vs. DCM Ltd. (2008) 167 Taxman 160 (Delhi) CIT vs. Goyal MG Gases Pvt. Ltd. (2007) 163 Taxman 541 (Delhi,) he held that the appellant otherwise fulfilled the conditions u/s 36(1) (vii) read with Section 36 (2) of the IT Act. He was satisfied and accordingly allowed the claim of the Assessee for bad debt as justified.

After having noted all the aforesaid facts as well as the accounting policy of the Assessee, we uphold the aforesaid findings. No question of law arises.

Dismissed.


A.K. SIKRI, J.


SIDDHARTH MRIDUL, J.

DECEMBER 10, 2009
bp