



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

#15

+ ITA 809/2010

COMMISSIONER OF INCOME TAX ..... Appellant  
Through Ms. P.L. Bansal, Adv.

versus

ZEE TURNER LTD ..... Respondent  
Through None.

**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**  
**12.07.2010**

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In this appeal preferred under Section 260A of the Income Tax Act, 1961 the defensibility of the order dated 19.12.2008 passed in ITA No. 3984/D/07 for the Assessment Year 2004-05 is called in question.

The respondent assessee claimed a sum of Rs.69,90,000/- to be written off as bad debt. The assessing officer while framing the order of assessment came to hold that the assessee company could not establish that the amount had really become bad debt and deserved to be written off. After rejecting the claim, the assessing officer directed a penalty proceeding under Section 271(1) (c) to be initiated against the assessee.

Being dissatisfied, the assessee preferred an appeal before CIT(Appeals) who referred to the written submissions dated 21.6.2007 filed by the assessee



appellant therein and after analysing the anatomy of the provisions contained in Sections 36(1)(vii) and 36(ii) and further referring to the clarificatory circular of Central Board of Direct Taxes came to hold that the assessee was entitled for the benefit of the debt to be written off as bad debt in view of the decision rendered by the High Court of Delhi in *South India Surgical Co. Ltd. vs. CIT (Madras)*, 297 ITR 62 and *CIT vs. Global Capital Ltd.* decided on 30.5.2007. Being of this view, the First Appellate Authority allowed the appeal.

The revenue thereafter preferred the appeal before the tribunal and the tribunal concurred with the order passed by the appellate authority by holding as under:

“2.3 After considering the totality of the facts and circumstances of the case and having found that the assessee has taken extreme steps for recovery of the amount by deactivating the services to the defaulting cable operators, and having found that the assessee has written off the debts in the books of account and satisfied the condition laid down in section 36(1)(vii) read with section 36(ii) of the Act, we are of the considered view that the CIP(Appeals) was justified in deleting the disallowance of bad debts made by the Assessing Officer. In this connection, a reference may be made to a decision of Hon’ble Jurisdictional High Court of Delhi in the case of *CIT vs. Morgan Securities and Credits Pvt. Ltd.* reported in (2007) 292 ITR 339 where it has been held that in order to make claim of bad debts, the assessee is required only to write off the bad debts as irrecoverable in its accounts and need not to prove that debts had become bad in the year in which claim has been made.”



Ms. P.L. Bansal, learned counsel for the revenue submitted that the statutory provisions of 36(2) (i) have not been kept in view by the tribunal.

On a query being made whether any finding has been recorded by the assessing officer in that regard, learned counsel despite making a laborious effort and scrutinizing the order passed, could not point out the same from the order. As we find the order passed by the CIT (Appeals) as well as by the tribunal had been founded on decisions rendered by this Court in *Global Capital Ltd.* (supra) and *CIT vs. Morgan Securities and Credits Pvt. Ltd., (2007) 292 ITR 339*, we perceive no error in the same.

Resultantly, the appeal, being sans merit, stands dismissed in limine.

  
CHIEF JUSTICE

  
MANMOHAN, J

JULY 12, 2010  
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