

**IN THE INCOME TAX APPELLATE TRIBUNAL "C", BENCH MUMBAI  
BEFORE SHRI JASON P BOAZ, AM  
&  
SHRI RAM LAL NEGI, JM**

**ITA No.6086/Mum/2014  
(Assessment Year :2007-08)**

M/s. Prime Focus Limited, Prime Focus House, Opp. Citi Bank, Linking Road, Khar (West), Mumbai – 400 052	Vs.	ACIT- OSD-1 CEN RG 7, Mumbai
<b>PAN/GIR No.</b>		<b>AAACP6811B</b>
<b>Appellant)</b>	<b>..</b>	<b>Respondent)</b>

Assessee by	None
Revenue by	Shri Rajat Mittal
<b>Date of Hearing</b>	<b>02/01/2017</b>
<b>Date of Pronouncement</b>	<b>04/01/2017</b>

**आदेश / O R D E R**

**PER JASON P BOAZ (A.M):**

This appeal by the assessee is directed against the order of the CIT(A)-40, Mumbai dated 30/06/2014 for A.Y. 2007-08.

2. The facts of the case, briefly, are as under:-

2.1. The assessee, a company engaged in the business of post production of films, editing, graphics, scanning, recording etc., and shooting equipment rentals, filed its return of income for A.Y. 2007-08 on 15/11/2007 declaring income of Rs.20,16,17,900/-. A revised return was filed on 31/03/2009 declaring income of Rs.20,23,43,199/-. The case was taken up for scrutiny and the assessment was completed u/s.143(3) of the Income Tax Act,1961 (in short 'the Act') vide order dated 30/12/2009,

wherein the income was assessed at Rs.21,14,21,590/- in view of various additions / disallowances.

2.2. Aggrieved by the order of assessment dated 30/12/2009 for A.Y.2007-08, the assessee preferred an appeal before the CIT(A) – 40, Mumbai, who disposed off the appeal vide the impugned order dated 30/06/2014, allowing the assessee partial relief.

3. Aggrieved by the order of the CIT(A) – 40, Mumbai dated 30/06/2014, the assessee preferred this appeal raising the following grounds:-

*1. The CIT(A) erred in upholding the disallowance of Bad Debts to the extent of Rs. 14,65,624/- in respect of four parties which is arbitrary since the Learned Assessing Officer failed to recognize the fact that the method of recording of invoices by the third parties (clients) or the method of accounting is not in the hands of the Appellant. The Appellant produced all details of invoices, payments received, ledger extracts, etc. to support their contention of writing off moneys not received as bad debts but still the Learned Assessing Officer as well as the CIT(A) persisted with the disallowance.*

*2. The CIT(A) was not justified in confirming that writing off of debts in the assessee's case is not genuine for the reason that the opening balances of the respective parties were not tallying with the books of the respective parties.*

*3. The CIT(A) has erred in confirming the disallowance on the fact that the assessee has continued doing the business with all these four parties even after writing off the debt.*

4. The hearings in this case were filed on a number of occasions. On all the dates hearing were held, none was present for the assessee, nor was any adjournment sought on its behalf. On a couple of occasions when the Bench did not function, adjournments were granted by the Registry through display on the notice board. It is seen that even issue of notice by

Registered AD has not elicited by response from the assessee. In these circumstances, we are of the considered opinion that the assessee is not interested in pursuing its appeal seriously. On the other hand, the learned DR for Revenue was present and ready to argue on revenue's behalf. We, therefore, proceed to dispose off this appeal ex-parte, with the assistance of the learned DR for Revenue and the material on record.

5. In grounds 1 to 3 (supra) raised by the assessee, all challenge the finding of the learned CIT(A) in the impugned order in upholding the disallowance of bad debts amounting to Rs.14,65,624/- in respect of four parties since the balance of the parties in assessee's books were not tallying with the books of the respective parties, ignoring all the details furnished by it in this regard.

6. According to the learned DR for Revenue, the main reason for the AO disallowing the assessee's claim for write off of bad debts of four parties to the extent of Rs.14,65,624/- was that there were certain discrepancies/differences in the accounts of these parties vis-à-vis the books of account of the assessee which were not properly explained by the assessee. On appeal, the assessee admitted that there were certain infirmities in the billing system adopted by the assessee vis-à-vis the system adopted by the four parties. The learned CIT(A) noting that the assessee was not able to explain away these discrepancies / differences upheld the disallowance made by the AO. The learned DR submitted that since the assessee had failed to bring on record any evidence to explain

away the discrepancies / differences or controvert the findings of the learned CIT(A), the impugned order of the learned CIT(A) is to be upheld.

7. We have heard the learned DR and perused and carefully considered the material on record. As observed by the learned CIT(A), the AO had disallowed the assessee's claim for write off of bad debts of the four parties only to the extent that there were differences / discrepancies in the account balance of these parties vis-à-vis the books of accounts of the assessee, and to the extent these differences could not be explained away with any material evidence in this regard. That there were infirmities in the balance / accounts of these four parties vis-à-vis the books of accounts of the assessee is also admittedly not denied by the assessee. In our view, the learned CIT(A) after judiciously considering the facts of the case on this issue in detail has held as under at paras 15 to 17 thereof.

*15. I have considered the facts of the case and feel that arguments made by the appellant are totally misplaced. In the present case, the AO is not questioning the 'writing off of the bad debts' by the appellant, but he has highlighted the discrepancies in the amounts written off and claimed as bad debts by the appellant vis-a-vis the balances appearing in the books of the parties concerned. Since the balances in the appellant's books which have been written off were not matching with the balances as appearing in the books of the respective parties and no reconciliation for such difference was furnished nor any explanation for such discrepancies was furnished by the appellant, the differential amount has been brought to tax by the AO, and rightly so. The AO has stated in the assessment order that while the assessee has claimed an amount of Rs.16.86.863/- as bad debts written off in the name of M/s. B4U Television Network India Ltd., the said party was showing a balance of RS.10,76,546/- only, in its books of accounts. Thus, the appellant has claimed an excess amount of Rs.6,10,317/- as bad debt written off, as compared to the*

balance appearing in the books of this party. Similarly, in the case of M/s. Eye Candy Works. the appellant has claimed on amount of Rs.6,94,624/- as bad debt written off, whereas no balance was appearing in the books of the said party. Further, in the case of M/s. Vishesh Entertainment Ltd., the appellant had claimed bad debts written off at Rs.9,49,619/-, whereas the balance as appearing in the books of the said party was only Rs.9,07,195/-, which indicated that the appellant had claimed excess bad debts written off amounting to Rs.42,424/-, in respect of this party. Similarly, in the case of M/s. UTV Production, the appellant had claimed bad debts written off amounting to Rs.1,40,000/-, whereas the corresponding balance appearing in the books of the said party was only Rs.21,741/-, which shows that the appellant had claimed excess bad debts written off amounting to Rs.1,18,259/-, in respect of this party. The total amount of excess bad debts written off claimed by' the appellant as compared to the balances as appearing in the books of the respective parties. worked out to Rs. 14,65,624/-, which was disallowed by the AO in the absence of proper reconciliation/ explanation. During the course of appellate proceedings also, the appellant has not furnished any reconciliation or clarification as to how the discrepancies as stated above were appearing and how the same can be reconciled.

16. It is further relevant to mention over here that the assessee is continuing business with all these parties, even after writing off of the balances. It is not clear as to how and why the assessee wrote off these amounts as irrecoverable, when it was still doing business with these parties, and in most of the cases, the appellant was even receiving payments subsequent to writing off. Accordingly, writing off of such amounts on the one hand and continuing business transaction with such parties on the other hands does not inspire confidence about the genuineness of such writing off, which may be just with a view of reduce the taxable income, and such a view cannot be held as totally exaggerated, looking to the facts and circumstances of the case. For example, from the account of M/s. Eye Candy Work, it is clear that the assessee has written off an amount of Rs.7.79.463/-, but even after that if business as usual between the assessee and M/s. Eye Candy Work and subsequently. several payments have been received. Relevant details are given below :-

<u>F.Y.2006-07</u>	<u>Amt.(Rs.)</u>
Opening Balance	10,31,465
Add: Billed for the year	<u>3,41,997</u>
	13,73,462
Less: Bad Debts w/o	7,79,643
Less: Received during the year	2,52,192
Less: Discount	91,627
Closing Balance	2,50,000
26/07/2007 Cheque received	1,00,000
Amount billed during the year	1,61,617

*From the above, it is clear that the amount of Rs.7.79.463/- has been written off without any reason or basis and the transactions are happening on regular basis between the two parties. Therefore, the very satisfaction that these amounts became irrecoverable and, therefore, should be written off becomes doubtful. Similar is the situation in respect of other accounts. It is very interesting to note that even after writing off the amounts the respective parties are showing closing balance, meaning thereby that the entire amount has not been written off, but only selectively, which raised further doubts.*

*17. The appellant has relied upon the decision in the case of TRF Ltd. vs. CIT. Ranchi, wherein it was held that after 1/4/1989, once a balance has been written off in the books, it should be allowed and assessee is not required to prove that actually it had become bad. However, situation is slightly different in the present case, as there is discrepancy in the figure written off, and the AO has only taxed such discrepancy. The claim of the assessee that he was actually showing more balance than the other party, does not explain the situation. In fact, amount written off by the assessee is liable to be taxed u/s.41 (1) in the hands of other party. Therefore, proper reconciliation is necessary. The appellant has also relied upon the decision in the case of DCIT vs. Oman International Bank SOAG (2006) 100 ITO 285 (Mum)(SB) and CBDT circular No.551 dated 23/1/1990 as also the decision of Hon'ble jurisdictional High Court in the case of CIT vs. Star Chemical (Bombay) Pvt. Ltd.*

*However, as mentioned above, the AO as such has not rejected the claim of the appellant towards writing off of bad debts. What*

*the AO has stated is that the amounts written off in the books of the appellant are not tallying with the books of the respective parties and the appellant could not reconcile the discrepancies. The AO has rejected appellant's claim of bad debts only to the extent to which it did not tally with the balances as appearing the books of the respective parties, and the entire claim of bad debts has not been rejected. Therefore, the facts of the cases relied upon by the appellant are distinguishable. The CBDT circular dated 23/1/1990 as relied upon by the appellant is also not applicable to the facts of the present case. In the circumstances, I do not find any infirmity in the order of the AO. The same is therefore, upheld, and this ground of appeal of the assessee is, accordingly, rejected.*

In our considered view, since the assessee has failed to bring on record any material evidence to controvert the finding recorded by the learned CIT(A) on this issue, and finding no merits in the grounds raised by the assessee, we uphold the impugned order of the learned CIT(A).

**8. In the result, the assessee's appeal for A.Y.2007-08 is dismissed.**

Order pronounced in the open court on this

04/01/2017

**Sd/-**  
**(RAM LAL NEGI)**  
JUDICIAL MEMBER

**Sd/-**  
**(JASON P BOAZ)**  
ACCOUNTANT MEMBER

Mumbai; Dated 04/01/2017

Karuna Sr.PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)  
ITAT, Mumbai