IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

ITA.No. 5 of 2015 ()

ORDER IN ITA 791/2013 of INCOME TAX APPELLATE TRIBUNAL,COCHIN BENCH
DATED 25.4.2014

APPELLANT/ASSESSEE:

M/S. MARK MEDIA ADVERTISING PROMOTIONS
DOOR NO.10/1256, ERINJERI ANGADI, THRISSUR-680001
REPRESENTED BY ITS JOINT MANAGING PARTNER
SHRI.JAMES PAUL.

BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN

RESPONDENT/REVENUE:

THE COMMISSIONER OF INCOME TAX
AAYAKAR BHAVAN, SHAKTHAN THAMPURAN NAGAR
THRISSUR-680001.

R BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A: TRUE COPY OF THE ASSESSMENT ORDER DATED 17.11.2008 PASSED BY THE ASST. COMMISSIONER OF INCOME TAX, CIRCLE-2(1), RANGE-2, THRISSUR.

ANNEXURE B: TRUE COPY OF THE ORDER OF THE APPELLATE ORDER NO.ITA NO.39/R-11/TCR/CIT(A)-V/2012-13 DATED 21.10.2013 PASSED BY THE COMMISSIONER OF INCOME TAX (APPEALS) -V, KOCHI.

ANNEXURE C: TRUE COPY OF THE ORDER NO.ITA NO.791/COCH/2013 DATED 25.4.2014 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH, COCHIN.

ANNEXURE D: TRUE COPY OF THE LETTER NO.1926/135/2008-09 DATED 28.10.2008 ISSUED BY THE APPELLANT.

ANNEXURE E: TRUE COPYOF THE LETTER NO.1926/135/2008-09 DATED 14.11.2008 ISSUED BY THE APPELLANT.

ANNEXURE F: TRUE COPY OF THE CERTIFICATE NO.1926/2014-2015 DATED 21.2.2015 ISSUED BY THE CHARTED ACCOUNTANT.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

THOTTATHIL B. RADHAKRISHNAN
&
K. HARILAL, JJ.

I.T.A. No. 5 of 2015

Dated this the 24th day of February, 2015.

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned senior counsel for the appellant and the learned counsel appearing for the Department.

2. The question sought to be raised as substantial question of law in this appeal under Section 260 A of the Income Tax Act, 1961, is fundamentally as to whether the Appellate Tribunal is justified in sustaining the disallowance of claim for bad debts amounting to Rs.11,35,060/- written off from the account as referable to a debtor viz., M/s.Metro Silks. As rightly noted by the learned Tribunal, the writing off, by treating a particular debt as a bad debt, is within the domain of the assessee in terms of the change of law noticed. But the pointed issue is as to whether on facts, the Tribunal and the

authorities below had acted contrary to law in refusing to uphold the writing off of those debts as bad debts. As is discernible from paragraph 9 of the Tribunal's order, the assessee raised bills of M/s.Metro Silks only on 5.10.2005 in respect of services rendered to them during the period from 14.8.2005 to 18.9.2005. The different cheques issued by M/s.Metro Silks to the assessee are enumerated in that paragraph of the Tribunal's order. The assessee presented some of the cheques on 3.4.2006 and the remaining cheques on 4.4.2006. Nine cheques were returned as dishonoured on 10.4.2006 and another was returned on 6.4.2006 as unpaid due to insufficiency of funds in the bank account of M/s.Metro Silks. The Tribunal therefore rightly noted that as on 31.3.2006, i.e., the last date of the year under consideration, the assessee could have considered the account of M/s.Metro Silks as a good/live account only, meaning thereby that the amount due from M/s.Metro Silks could not have been considered by the assessee as a bad debt as on 31.3.2006. In this view of the matter, there was no go for the Tribunal, but to confirm the decisions impugned before it. We see no question of law, much less any substantial question of law, arising for decision in this appeal.

This writ appeal fails and is accordingly dismissed.

Sd/-
THOTTATHIL B. RADHAKRISHNAN
JUDGE

Sd/-
K. HARILAL
JUDGE

Scl.