THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

I.T.T.A.No. 125 OF 2005

DATED 21ST NOVEMBER, 2017

Between:

Gulf Oil Corporation Limited,
Hyderabad … Appellant

AND

The Deputy Commissioner of I.T (Assts)
Spl. Range-4, Hyderabad … Respondent

Counsel for the appellant : Sri Y.Ratnakar

Counsel for the respondent : Ms.K.Mamata, Sr. Standing Counsel for Income Tax

THE COURT MADE THE FOLLOWING

JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

The unsuccessful assessee before the Income Tax Appellate Tribunal, Hyderabad Bench 'B', Hyderabad (for short, 'the Tribunal') in ITA.No.766/Hyd/98, filed this appeal.

2. The assessee has raised two grounds before the Tribunal, as evident from its order, wherein it has extracted the grounds, which read as under:

> " *Two grounds arise out of this appeal. The first ground relates to the claim of the assessee for allowance of Rs.30,70,000/- as revenue expenditure under sec.37 of the Income-tax Act, 1961 or alternatively that it should be allowed as bad debt.*
>
> *The second ground is that 10% of the rent received should be included in the profits of the business under Explanation (baa) to sec.80HHC of the Act while computing the relief.*"

3. It is noted in the order of the Tribunal that the assessee has filed detailed written submissions and requested the Bench to go through the same and dispose of the case in accordance with law and that no oral submissions were made. The Tribunal then dismissed the appeal by observing as under:

> "6. *After considering the written submissions of the learned counsel for the assessee as well as the order of the first appellate authority, we are of the considered opinion that the order of the first appellate authority*

> *has to be upheld as at para 3 (page 3) of his order. The learned Commissioner (Appeals) has given detailed reasons as to why the amount in question cannot be allowed as a revenue loss. We agree that the loss in question which has occurred due to abandonment of a project is not revenue loss and that it also does not qualify for allowance as bad debt. The first ground of the assessee is therefore, dismissed."*

Except that, it agreed with the finding of the Commissioner (Appeals) that the loss in question which has occurred due to abandonment of a project is not revenue loss and that it also does not qualify for allowance as bad debt, the Tribunal has assigned its own reasons in support of its conclusions.

4. After hearing the learned counsel for both the parties, we feel that the order under appeal cannot be sustained for the reason that it is bereft of any reasons. The Tribunal, being the final forum of fact, vested with the jurisdiction to adjudicate the appeal both on facts as well as on law, would be abdicating its function as the appellate forum if it merely confirms the orders of the first appellate authority or assessing officer without assigning independent reasons. Even in a case where the appellate body concurs with the view of the lower fora, it is incumbent upon it to assign independent reasons.

5. Being consecrated with the jurisdiction to examine the correctness or otherwise of the orders of the subordinate authorities on facts as well as in law, the Tribunal's obligation to assign reasons in support of its conclusions is absolute and unquantified.

6. Duty to give reasons is a facet of principles of natural justice, for a party who loses the litigation has a right to know the reason(s) therefor. Further, if reasons are not assigned, it would be difficult for the superior fora to adjudicate the correctness or otherwise of the orders of the lower fora. Reasons also eliminate arbitrariness in adjudication.

7. In the above view of the matter, the order of the Tribunal cannot be sustained and the same is accordingly set aside. The case is remanded to the Tribunal for afresh adjudication, after notice to both the parties, by passing a detailed speaking order.

8. In the result, the appeal is allowed to the extent indicated above.

C.V.NAGARJUNA REDDY, J.

Date: 21-11-20-17. ***T.AMARNATH GOUD, J.***
TJMR