HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

ITTA.No.695 of 2017

Date:31.10.2017

Between:

The Principal Commissioner of
Income Tax-4, Hyderabad.

..... **Appellant**

And:

M/s Online Media Solutions Ltd.,
Hyderabad.

.....**Respondent**

Counsel for the appellant: Mr. J.V.Prasad
Senior Standing Counsel for IT Department

The Court made the following:

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

This appeal is filed by the Principal Commissioner of Income Tax-4, Hyderabad against order, dated 26.6.2015, in ITA.No.1318/Hyd/2011 on the file the Income Tax Appellate Tribunal, Hyderabad Benches "A", Hyderabad (for short 'the Tribunal').

One of the aspects on which the respondent-assessee filed the afore-mentioned appeal before the Tribunal for the Assessment Year 2005-06 was that the Assessing Officer (AO) has wrongly made disallowance of an amount of Rs.1,69,89,612/- towards bad debts written off and that the appeal filed against the said order was unjustly dismissed by the Commissioner of Income Tax (Appeals) {for short 'CIT(A)'}. While allowing the appeal filed by the respondent-assessee, the Tribunal observed that there is no dispute with regard to the actual write off in the Books of Accounts. The AO and CIT(A) disallowed the bad debts on the ground that the assessee did not furnish the necessary details of bad debts written off, etc. The Tribunal relied upon the judgment of the Supreme Court in ***T.R.P. Ltd Vs. CIT*** [1] and observed that in view of the specific

[1] 323 ITR 397 (SC)

provisions of Section-36(1)(vii) of the Act, write off of the amount is enough to allow the same.

At the hearing, the only point urged by Mr. J.V.Prasad, learned senior Standing Counsel for Income Tax Department, is that under Clause-(i) of Sub-section-2 of Section-26 of the Income Tax Act, 1991, no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee.

On a perusal of the reasons given by the AO and CIT(A), we find that the afore-mentioned ground raised by the learned Senior Standing Counsel has not been made the basis for disallowance of the bad debts.

A ground which was neither raised nor urged before the Tribunal cannot be raised for the first time before this Court in an appeal filed under Section-260-A of the Act.

For the afore-mentioned reasons, we do not find any merit in this appeal and the same is, accordingly, dismissed.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE CHALLA KODANDA RAM

31st October 2017
DR