IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1432 OF 2016

The Pr.Commissioner of Income Tax-4 … Appellant

V/s.

M/s Nirmal Bang Securities Pvt. Ltd. … Respondent

Mr.Suresh Kumar for the Appellant.
Mr.Atul Jasani for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : JANUARY 22, 2019.

P.C.:-

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 30th September, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). This Appeal relates to Assessment Year 2010-11.

2. The Revenue urges the following question of law for our consideration:

> "Whether on the facts and in the circumstance of the case and in law the Tribunal has erred in deleting the addition of Rs.12,58,17,269/- made

by the A.O. on account of bad debts?”

3. The respondent-assessee had filed its return of income on 30th September, 2010 declaring a loss of Rs.74.27 lakhs for the subject assessment year. During the assessment proceedings the Assessing Officer noticed that the respondent had debited an amount of Rs.13.40 crores to its profit and loss account as bad debt written off. This the Assessing Officer disallowed on the ground that the bad debt figure had not been finally crystallized as there were claims and counter-claims between the parties and the Arbitration Proceedings were pending.

4. Being aggrieved, the respondent filed an appeal to the Commissioner of Income Tax (Appeals) (CIT(A)). By order dated 6th January, 2014, the CIT(A) on facts found that the amount has been crystallized as there was no counter-claim filed by the parties concerned and the Arbitration Award has also been passed. Thus, allowed the appeal of the respondent to the extent of Rs.12.58 crores as bad debts written off, as the balance had been paid by the parties.

5. Being aggrieved with the order of the CIT (A) the revenue filed an appeal to the Tribunal. On facts the impugned order of the Tribunal found that letters were addressed by the parties admitting their liabilities with a request for settlement. Thus, there was no issue of counter-claim. Further, it also found the dispute a facts had settled in Arbitration and the respondent had received some amount in terms of Award. It was only the remaining amount of Rs.12.58 crores which has been allowed as bad debt. Thus, dismissed the Revenue's appeal .

6. We find that both the CIT (A) and the Tribunal have rendered a concurrent finding of fact holding that the amounts written off as bad debts had been crystallized. This finding of fact has not been perverse in any manner. In the above view, the question as proposed does not give rise to any substantial question of law. Thus, not entertained.

7. Accordingly, the Appeal is dismissed. No order as to costs.

(M.S.SANKLECHA,J.) **(AKIL KURESHI,J.)**

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