IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

216 **ITA-565-2005 (O&M)**
Date of decision:- 18.01.2023

Industrial Cables
.... Appellant

Vs

Commissioner of Income Tax
...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Pankaj Jain, Senior Advocate with
Mr. Sachin Bhardwaj, Advocate for the appellant.

Ms. Gauri Neo Rampal, Senior Standing Counsel with
Mr. Aditya Mehtani, Junior Standing
counsel for the respondent.

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Ritu Bahri, J. (Oral)

The appellant has come up in appeal against the order dated 29.07.2005 passed by Income Tax Appellate Tribunal, Chandigarh Bench 'B', Annexure A-1.

The facts, not in dispute between the parties are that the claim made by the assessee amounting to Rs. 2,37,43,429/- claiming it to be a bad debt, has been disallowed. The assessing authority has examined the sales for the assessment year 1998. Details of the bad debts made by the assessee is given in Annexure A-4 to all the

Electricity departments of the different states. The benefit of bad debts has been disallowed on the ground that debts pertains to Government agencies like HSEB, GEB. HPSEB and various other electricity boards and plants and there was a hope that this amount will be recovered and in this backdrop, the claim of the appellant for bad debts has been disallowed.

Counsel for the appellant has referred to a judgment of Hon'ble the Supreme Court, ***T.R.F. Limited Vs. Commissioner of Income Tax, Ranchi***, dated 09.02.2010, Civil appeal No.5293 of 2003, where Hon'ble the Supreme Court was considering the assessment year 1990-1991 and 1993-1994 and has referred to the amendment made on 01.04.1989 in Section 36(1)(vii) of the Income Tax Act, 1961, which reads as under:-

> *"Post-1st April, 1989:*
> *Other deductions.*
> *36. (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28--*
> *(i) to (vii) xxxx xxxx xxxx*
> *(vii) subject to the provisions of sub-section (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year."*

As per the amendment made, if any, bad debt of part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year, the deductions have to be allowed.

Counsel for the respondent is not able to dispute with respect to the amendment made on 01.04.1989.

Considering this amendment, the Hon'ble the Supreme Court has observed that it was not necessary for the assessee to establish that the debt, in fact, has become irrecoverable. It was enough if the bad debt is written off as irrecoverable in the accounts of the assessee.

Keeping in view the above fact, order dated 29.07.2005 passed by Income Tax Appellate Tribunal, Chandigarh Bench 'B', Annexure A-1 is set aside, the present appeal is allowed and the matter is remanded back to the assessing authority to pass a fresh speaking order keeping in view the amendment made on 01.04.1989 and the assessing officer has to examine the aspect to the extent of the written off.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

18.01.2023
pooja saini

Whether speaking/reasoned : Yes/No
Whether reportable **: Yes/No**