

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. AMIT SHUKLA, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No. 2457/Del/2018
(Assessment Year : 2014-15)

DCIT(E), Circle - 1(1) New Delhi PAN : AAATF 0185 H (APPELLANT)	Vs.	Flt Lt. Rajan Dhall Charitable Trust Sector - B, Pocket - 1, Mahipal Complex, Aruna Asaf Ali Marg, Vasant Kunj New Delhi, Delhi (RESPONDENT)
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Assessee by	Shri R. M. Mehta, CA.
Revenue by	Ms. Sangeeta Yadav, Sr. D.R.

Date of hearing:	03.03.2022
Date of Pronouncement:	11.03.2022

ORDER

PER ANIL CHATURVEDI, AM:

This appeal filed by the Revenue is directed against the order dated 01.01.2018 of the Commissioner of Income Tax (CIT)-40, Delhi relating to Assessment Year 2014-15.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is a trust registered under the Societies Act, 1860 and also registered u/s 12A of the I.T. Act, 1961. The assessee has also been granted approval u/s 80G(5)(vi) by DIT(E). Assessee filed its return of income for A.Y. 2014-15 on 03.11.2014 declaring Nil income. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 22.12.2016 and the total Excess of Income over Expenditure was computed at Rs.5,74,04,860/- by *inter alia* disallowing the claim of provision for doubtful debts amounting to Rs.3,32,58,322/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 01.01.2018 in Appeal No.269/2016-17 granted substantial relief to the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal before us and has raised the following grounds:

- “(i). On the facts and in circumstances of the case and in law, Ld CIT(A) has erred in allowing the Provision for doubtful debts as application of income ignoring that the assessee had not actually incurred such expenses during the previous year.*
- (ii) On the facts and in circumstances of the case and in law, Ld CIT(A) has erred in allowing the provisions for doubtful debts when Hon’ble Supreme Court in the case of Southern Technologies Ltd. Vs JV1T 320 ITR 577 (2010) and Hon’ble High Court in the case of CIT Vs ILPLA Paramount (P.) Ltd [2010] 192 Taxman 65 (Delhi) upheld that provision for doubtful debts are not allowable.*
- (iii) The appellant craves leave to add, to alter or amend any ground of appeal raised above at the time of hearing.”*

4. Before us, at the outset, Learned DR submitted that though Revenue has raised various grounds but the sole controversy is with respect to the allowing of Provision for doubtful debts as application of income by Learned CIT(A).

5. During the course of assessment proceedings, AO on perusing the Income and Expenditure Account noticed that an amount of Rs.3,32,58,322/- was claimed as application of income on account of "Provision for doubtful debts". AO was of the view that the same was not allowable as application as it is not an ascertained liability and had not been applied during the relevant financial year 2013-14. He was further of the view that assessee is entitled only for the deduction of bad debts written off and not of doubtful debts in respect of which a provision is created purely on the basis of estimation and apprehensions. He accordingly disallowed the amount of Rs.3,32,58,322/- as application of income.

6. Aggrieved by the order of AO, assessee carried the matter before CIT(A). Before CIT(A), it was *inter alia* submitted that the amount claimed as deduction was a quantified and ascertained amount and it was with respect to the outstanding from various individuals institutes which could not be recovered by the assessee for the year altogether and therefore it was written off after seeking the approval governing body. It was further submitted that though the claim was described as "provision for

doubtful debts” but in fact it was a provision for bad debts created by debiting the income and expenditure account and was supported by complete details and was not an estimate built on apprehensions as alleged by AO. It was further submitted that since assessee was maintaining its account for mercantile basis it was entitled to exemption u/s 11 of the Act and that the income had to be computed on commercial principles as held by Hon’ble Apex Court in the case of Commissioner Of Income-Tax vs. Programme For Community (2001) 248 ITR 001 (SC). Reliance was also placed on the decision of Hon’ble Delhi High Court in the case of DIT(E) vs. NASSOM 345 ITR 362.

7. CIT(A) after considering the submissions of the assessee decided the issue in favour of the assessee by observing as under:

“5.2 Grounds of appeal no.2 challenges the disallowance of Rs.3,32,58,322/- as application of income on account of provisions for doubtful debts.

5.2.1 The Assessing Officer has denied the said amount as application since its provisions for doubtful debts is not ascertained liability and has not been applied. The appellant has submitted that the assessee is a trust carrying out charitable activities and income has to be computed on commercial principles. It has further been submitted that the provisions of its bad debts ascertained and quantified. As regards, the judgments relied upon it has been submitted that the same are not applicable since factually the claim in question is identified and quantified and is not a provisions based on estimation and appreciations. As regards the judgment of the Supreme Court it was submitted that the same pertained the provisions of section 115JA which

provided for the provisions for doubtful debts to be included in the figure of books profit. Reliance has also been placed on the decision of the Hon'ble Delhi High Court in the case of DIT(E) Vs. NASSCOM (supra) regarding allowability of provisions of doubtful debts.

5.2.2 The Hon'ble Delhi Court, in the case of DIT (E) vs. NASSCOM (supra) relied upon by the appellant have observed as under:

"40. ...Be that as it may, under the commercial principles it has always been recognized that a provision, reasonably made for a loss or an outgoing, can be deducted from the income if there is apprehension that the debt might become bad. There is nothing brought on record to show that the provision was not made bona fide. In such a situation, the ratio of the decisions cited by us while dealing with the deductibility of the taxes paid under the VDIS will equally apply. We accordingly hold that while computing the income available to the trust for application to charitable purposes in India in accordance with section 11(1)(a) the provision for doubtful debts must be deducted. Accordingly, we frame the following substantial question of law and answer the same in the affirmative in favour of the assessee and against the Revenue :

"Whether the Tribunal was right in law in holding that the provision for doubtful debts must be deducted from the income of the trust on commercial principles, for the purposes of section 11(1)(a) of the Act ?"

*5.2.3 As has been observed by the Hon'ble High Court in the case under consideration also there is nothing on record to show that the provisions was not made bonafide. On the contrary the appellant has submitted details of show that the provisions of it's towards which are ascertained and quantified. It is also apparent that the provision was made in furtherance of the objectives of the trust. In view of the discussion above relying on the judgment of the jurisdiction High Court in the case of DIT(E) Vs. NASSCOM (supra), the addition made on account of provisions of bad and doubtful debts is deleted since the income available for application to charitable purposes is to be computed in accordance with commercial principles. Ground of appeal no. 2 is **allowed.**"*

8. Aggrieved by the order of CIT(A), Revenue is before us.

9. Before us, Learned DR supported the order of AO.

10. Learned AR on the other hand reiterated the submissions made before the lower authorities and supported the order of CIT(A).

11. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the denial of claim of Rs.3.32 crores (rounded off) as application of income on account of provisions for doubtful debts. We find that CIT(A) after considering the submissions of the assessee has given a finding that the provision made by the assessee was ascertained and quantified and the provision was made in furtherance of the objectives of the trust. He further relying on the decision of Hon'ble Delhi High Court in the case of NASSCOM (supra) held that the income for application for charitable purpose is to be computed in accordance with the commercial principles. Before us, Revenue has not placed any contrary binding decision in its support nor has pointed to any fallacy in the findings of CIT(A). In such a situation, we find no reason to interfere with the order of CIT(A). **Thus the grounds of the Revenue are dismissed.**

12. In the result, appeal of the Revenue is dismissed**Order pronounced in the open court on 11.03.2022**

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 11.03.2022

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI