

THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 09.04.2013

+ ITA No. 209/2013

COMMISSIONER OF INCOME TAX-VI ... Appellant

versus

TIMES BUSINESS SOLUTION LTD. ... Respondent

Advocates who appeared in this case:

For the Appellant : Mr Sanjeev Rajpal

For the Respondent : None

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE R.V.EASWAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. This appeal by the revenue is directed against the order of Income Tax Appellate Tribunal dated 31.08.2012 in ITA No. 629/Del/2012 pertaining to the assessment year 2007-08. The assessing officer had disallowed a sum of ₹. 3,63,31,532/- which had been shown by the assessee as bad debts written off.

2. The assessee company, consequent upon a scheme of demerger under section 391 to 394 of the Companies Act, 1956, had acquired all

the assets and liabilities of two web based portals that were hitherto being operated by the assessee's holding company. Those web based portals were acquired as going concerns. Shareholders of the holding company were issued shares in the assessee company pursuant to the demerger. The assessee thereafter continued to run and operate the two web portals and derived income by way of online services, co-branded income, advertisements and management of events. In the very first year of operation, after the said demerger, the assessee company had written off bad debts amounting to ₹. 3,63,31,432/- in its books. According to the assessing officer these debts related to the years 2003 to 2006 when the web portals were run and operated by the holding company and that the assessee could not have written off the bad debts as such act contravened section 36(1)(vii) of the Income-tax Act, 1961. Consequently, he rejected the claim in respect of the bad debts written off.

3. Thereupon, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) who, following the decision of the Supreme Court in the case of **CIT v. Veerabhadra Rao: 155 ITR 152 (SC)**, held that the assessee was entitled to write off the irrecoverable bad debts although, the said debts had been acquired from the holding company. The Supreme Court in the said decision in the case of **Veerabhadra Rao** (*supra*) observed that if a business, along with its assets and liabilities, is transferred by one owner to another, there was no reason as to why the debts so transferred should not be entitled to the same treatment in the hands of the successors. It is clear that the Supreme Court held that when the original owner would have been entitled to write off the bad debts, the

successor who acquires the assets and liabilities from the previous owner would also be entitled to treat the bad debts in the same manner in which the original owner was entitled under law. Consequently, the Commissioner of Income Tax (Appeals), following the decision of the Supreme Court in the case of **Veerabhadra Rao** (*supra*) allowed the appeal of the assessee and permitted the assessee to write off the bad debts.

4. Before the Commissioner of Income Tax (Appeals) a point was also raised by the revenue that there must be some evidence to show that the debts had in fact become bad. A similar argument was also sought to be raised by the learned counsel for the revenue before us. However, we find that the Commissioner of Income Tax (Appeals) has adequately addressed this issue by placing reliance on the Supreme Court decision in the case of **T.R.F. Limited v. CIT: 323 ITR 397(SC)** wherein the Supreme Court clearly held that after the amendment which took effect from 01.04. 1989, it was not necessary for the assessee to establish that a debt, in fact, had become irrecoverable. The Supreme Court further observed that it was enough if the bad debts were written off as irrecoverable in the accounts of the assessee. There is no dispute about this fact insofar as the present case is concerned. The assessee had written off the debts in question as irrecoverable in its accounts.

5. The Income Tax Appellate Tribunal has merely confirmed the decision of the Commissioner of Income Tax (Appeals). We find no infirmity in the decision of the Commissioner of Income Tax (Appeals)

or in the decision of the Tribunal. No question of law, what to speak of substantial question of law, arises for our consideration.

6. The appeal is dismissed.

BADAR DURREZ AHMED, J

R.V.EASWAR, J

APRIL 09, 2013

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