

IN THE HIGH COURT OF DELHI AT NEW DELHI

17.09.2009

Present: Ms. Surichi Aggarwal with Mr. Anish Kumar, Advs. for the appellant. ITA No.224/2009 GOETZE (INDIA) LTD

Two issues are proposed to be raised in this appeal. The first relates to bad debts written off by the assessee company in the income tax return filed in respect of Assessment Year 2000-01. The assessee company had been giving Inter-corporate Deposits (ICD) in these years. However, it was found by the assessee company that such ICDs given to four companies for a total sum of Rs.3.6 Crores had become bad debts. Therefore, the claim was deducted under Section 36(1)(vii) of the Income Tax Act read with Section 37(2)(i) of the said Act. The Assessing Officer disallowed the said deduction only on the ground that the money lending was not the business activity of the assessee. Further, Income Tax Appellate Tribunal found that in the Memorandum of Association, money

lending is mentioned as one of the objects of the company. It is also found, as a matter of record, that the assessee company has been giving ICDs since 1995-96 and interest in income earned by the assessee in all these years was shown as 'income from business' and not income from other sources and also tax paid thereon as business income. Thus, when the interest income from these ICDs shown as income from business, bad debts were rightly claimed as deduction under Section 37(2)(i). The second issue relates to depreciation claimed by the assessee company in respect of its vegetable oil unit. This depreciation was disallowed by the Assessing Officer on the ground that in the relevant assessment year, the said

unit was not functioning. However, the ITAT noted that the depreciation was claimed in respect of assets, viz., building, vehicles and furniture and no depreciation was claimed on plant and machinery. The ITAT, in these circumstances, rightly held that the issue was covered by the judgment of this Court in the case of Capital Bus Service (P) Ltd. Vs. CIT [1980] 123 ITR 404. Since no substantial question of law arises for our consideration, this appeal is dismissed.

A.K. SIKRI, J.

VALMIKI J. MEHTA, J.

September 17, 2009

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