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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 159/2020

THE PR. COMMISSIONER OF INCOME TAX -6 Appellant

Through: Mr.Ruchir Bhatia, Sr.Standing
Counsel.

versus

NILGIRI FINANCIAL CONSULTANTS LTD. Respondent

Through: Mr.Gautam Jain, Advocate.

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Date of Decision: 25th July, 2022**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****J U D G M E N T****MANMOHAN, J (Oral):****C.M.No.7947/2020**

Keeping in view the averments in the application, the delay in re-filing the appeal is condoned.

Accordingly, the application stands disposed of.

ITA No.159/2020

1. Present appeal has been filed challenging the order dated 04th July 2019 passed by the Income Tax Appellate Tribunal [ITAT] and for seeking restoration of the Assessing Officer's order.

2. Learned counsel for the Appellant states that the ITAT erred in deleting the addition of Rs.4,07,53,938/- made by the Assessing Officer on



account of bad debts written off. He points out that the debtor of the assessee, i.e. M/s Max New York Life Insurance Company in response to a notice issued under Section 133(6) of the Income Tax Act, 1961 [for short 'Act'] has shown the amount as a liability in its books of accounts. He also states that the Respondent has not closed the account of M/s Max New York Life Insurance Company. In support of his contention, he relies upon the Remand Report filed by the Assessing Officer before the CIT(A).

3. *Per contra*, Mr.Gautam Jain, learned counsel for the Respondent states that the Respondent had business transactions with M/s Max New York Life Insurance Company for the Financial Year 2007-08 and 2008-09. He emphasises that, thereafter, the Assessee company had not entered into any transactions with M/s Max New York Life Insurance Company. In support of his contention, he relies upon the Submissions filed by the Respondent before the CIT(A).

4. Mr.Jain also draws this Court's attention to the Reconciliation of Information/Reply filed under Section 133(6) of the Act by Max and Consultancy Income booked by the Appellant. The same is reproduced hereinbelow:-

<i>Particulars</i>	<i>Amount (in Rs.)</i>	<i>TOTALS</i>
<i>Invoices raised by the appellant including services tax during FY 2007-08 (details have already been filed vide our submission dt. 10.12.2015)</i>	<i>52,910,283</i>	
<i>Invoices raised by the appellant including services tax during FY 2008-09 (details have already been filed vide our sub mission</i>	<i>34,868,047</i>	<i>87,778,330</i>



dt. 10.12.2015)		
<i>Invoices considered by Max (as mentioned at point No.e, in its reply filed on 09.02.2016) (16,065,173 + 11,808,507 + 11,474,541)</i>		39,348,221
Balance amount of invoices, which were not considered (claimed) by Max		48,430,109
<i>Amount of Bad Debt claimed by the Appellant</i>		40,753,938

(emphasis supplied)

5. Having heard learned counsel for the parties, this Court is of the view that Section 36(1)(vii) r/w Section 36(2) of the Act provides that in order to claim deduction on account of bad debts, two conditions have to be met by the Assessee i.e. (i) the bad debts must have been taken into account in computing the income of the Assessee of previous year or of an earlier/previous year and; (ii) the bad debts should have been written off in the accounts of the Assessee. In the present case, the CIT(A) has given a finding of fact that the amounts claimed as bad debts had been taken into account in computing the income of the Assessee in the previous year and offered for taxation and the unrecovered amounts had been written off in the books of account and, consequently, the claim of the Assessee was duly allowable.

6. This Court is also in agreement with the contention of learned counsel for the Respondent that as M/s Max New York Life Insurance Company had considered Respondent's invoices to the tune of Rs.4,84,30,109/- as 'not



payable', the amount of Rs.4,07,53,938/- claimed as bad debts by the Appellant was legal and justified. In any event, in the appeal filed by the Department, it has not been averred that the Respondent has received any payment from M/s Max New York Life Insurance Company against the alleged bad debts in the last seven Assessment Years.

7. Accordingly, the present appeal is dismissed.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

**JULY 25, 2022
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