

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “C”, BANGALORE**

Before Shri George George K, JM & Shri B.R.Baskaran, AM

ITA No.261/Bang/2018 : Asst.Year 2010-2011

ITA No.262/Bang/2018 : Asst.Year 2011-2012

M/s.Bangalore Electricity Company Limited, BESCOM, Corporate Office, K.R.Circle Bangalore – 560 001. PAN : AACCB1412G.	v.	The Dy.Commissioner of Income-tax, Circle 1(1)(2) Bangalore.
(Appellant)		(Respondent)

ITA No.344/Bang/2018 : Asst.Year 2010-2011

ITA No.345/Bang/2018 : Asst.Year 2011-2012

The Dy.Commissioner of Income- tax, Circle 1(1)(2) Bangalore.	v.	M/s.Bangalore Electricity Company Limited, BESCOM, Corporate Office, K.R.Circle Bangalore – 560 001.
(Appellant)		(Respondent)

Revenue by : Sri.Pradeep Kumar, CIT-DR

Assessee by : Sri.Sridhar V., CA

Date of Hearing : 16.12.2020	Date of Pronouncement : 16.12.2020
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ORDER

Per George George K, JM

These cross appeals are directed against separate orders of the CIT(A), both dated 26.09.2017. The relevant assessment years are 2010-2011 and 2011-2012.

We shall first adjudicate the assessee's appeal.

ITA Nos.261 & 262/Bang/2018 : Assessee's appeal :

2. The solitary issue raised in these appeals is whether the CIT(A) is justified in confirming the addition made by the

Assessing Officer for provision for bad and doubtful debts while computing book profits u/s 115JB of the i.T.Act.

3. At the very outset, we noticed that the Hon'ble High Court in assessee's own case for assessment year 2003-2004 has decided an identical issue in favour of the Revenue and the CIT(A) had followed the judgment of the Hon'ble High Court. Further, the assessee had filed declaration u/s 158A of the I.T.Act read with Rule 16 of the I.T.Rules, in Form No.8 for both the assessment years, claiming identical question of law is pending adjudication before the Hon'ble Apex Court u/s 261 of the I.T.Act for assessment year 2003-2004 in assessee's own case.

4. We have heard the rival submissions and perused the material on record. In respect of addition of provision for bad and doubtful debts u/s 115JB of the I.T.Act, we find that an identical issue is pending adjudication before the Hon'ble Apex Court in assessee's own case for assessment year 2003-2004 in SLP No.31797/2014. Therefore, both the appeals filed by the assessee are restored to the file of the Assessing Officer. The Assessing Officer shall take a decision in accordance with the terms of provisions of section 158A of the I.T.Act as regards filing of Form No.8 by the assessee (Section 158A of the I.T.Act read with Rule 16 of the I.T.Rules). It is ordered accordingly.

5. In the result, the appeals filed by the assessee are allowed for statistical purposes.

ITA Nos.344 & 345/Bang/2018 : Department's appeal :

6. The solitary issue raised in these appeals is whether the CIT(A) is justified in deleting the addition made by the Assessing Officer to the book profit u/s 115JB of the I.T.Act with regard to provisions for estimated value of scrapped assets / erosion in value of faulty and dismantled assets.

7. The CIT(A) had decided the above issue in favour of the assessee by following ITAT's order dated 08.03.2013 in assessee's own case for assessment years 2003-2004 and 2008-2009 in ITA No.729/Bang/2013 and 793/Bang/2013. The relevant finding of the CIT(A) reads as follow:-

“Ground No.2 & 3 are regarding the addition of provision in respect of estimated value of scrapped assets and addition of provisions in value of erosion in value of faulty and dismantled assets. In respect of these two grounds, it is seen that the Hon'ble Tribunal in their order in ITA No.729 and 793/Bang/2013 dated 8.3.2013, for the Asst.years 2003-04 and 2008-09, have confirmed the action of the CIT(Appeals) who in turn held that the adjustment on account of these two heads cannot be made while computing the book profit u/s 115JB of the Act. Respectfully following the above, I delete the addition made by the AO in this regard.

In the result, the appeal is treated as partly allowed.”

8. The learned Departmental Representative has filed a brief written submission, wherein it is stated that the ITAT's order for assessment years 2003-2004 and 2008-2009 (supra) has not attained finality and the appeal filed by the assessee before the Hon'ble Karnataka Court is pending adjudication. The learned AR supported the orders passed by the CIT(A).

9. We have heard the rival submissions and perused the material on record. The Tribunal in assessee's own case for assessment years 2003-2004 and 2008-2009 had decided an identical issue in favour of the assessee. The CIT(A) has merely followed the order of the coordinate Bench of the Tribunal. The order of the ITAT has not been overturned by the Appellate Authorities as on date. Therefore, we find that the CIT(A)'s order is correct and in accordance with law. It is ordered accordingly.

10. In the result, the appeals filed by the Revenue are dismissed.

Order pronounced on this 16th day of December, 2020.

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 16th December, 2020.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-1, Bengaluru
4. The Pr.CIT-1, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore