IN THE ITAT HYDERABAD BENCH 'A'

Natco Pharma Ltd.

v.

Deputy Commissioner of Income-tax, Circle-16(1)*

CHANDRA POOJARI, ACCOUNTANT MEMBER

AND SMT. ASHA VIJAYARAGHAVAN, JUDICIAL MEMBER

IT APPEAL NOS. 377 (HYD.) OF 2009 AND 487 & 686 (HYD.) OF 2010

[ASSESSMENT YEARS 2005-06 & 2006-07]

OCTOBER 31, 2012

ORDER

Chandra Poojari, Accountant Member - ITA No. 377/Hyd/2009 by the assessee is directed against the order of the CIT(A)-V, Hyderabad dated 27.1.2009 for the assessment year 2005-06. ITA No. 487/Hyd/2010 by the assessee and ITA No. 686/Hyd/2010 by the Revenue are directed against the order of the CIT(A)-V, Hyderabad dated 16.02.2010 for the assessment year 2006-07. Since all the above three appeals belong to one assessee and the issues are interlinked, these appeals are clubbed together, heard together and are being disposed of by this common order for the sake of convenience.

2. First we will take up assessee's appeal in ITA No. 377/ Hyd/2009. The first ground in this appeal is with regard to sustaining of addition by the CIT(A) made by the Assessing Officer in disallowing Rs. 2,76,68,393 out of interest debited to Profit and Loss A/c. stating that interest free advances were given to group companies by the assessee and, therefore, interest relatable to such advances cannot be allowed as deduction.

3. Brief facts of the issue are that during the course of assessment proceedings the Assessing Officer noticed that the assessee has advanced loans amounting to Rs. 23,05,69,947 to six of its group companies as under:

Sl. No.	*Particulars*	*Amount (Rs.)*
1.	Natco Drug & Fine Chemicals	41,260
2.	Natco Trust	12,86,418
3.	Nat Soft Information P. Ltd.	6,49,759
4.	Natco Organics Ltd.	5,81,50,536

5.	Krishna Port Company Ltd.		17,00,77,719
6.	Krishnapatnam Rail Road Ltd.		3,64,255
		Total	23,05,69,947

4. The Assessing Officer noticed that the assessee has paid huge amount of interest on the loans/borrowed funds taken by it from banks/financial institutions. However, the assessee has not charged any interest on the above advances/loans given to its sister concerns. In response to query raised by the Assessing Officer as to why for not charging interest on the above advances, proportionate interest out of the interest paid to financial institutions should not be disallowed, the assessee has submitted that advances were made to the group companies out of the revenue generated from operation of the business and hence, no disallowance can be made out of the interest paid by it. However, the Assessing Officer overruled such contention of the assessee. He noted that the assessee has incurred excess interest on account of business of group companies. He observed that had the assessee charged interest on such advances given to its group companies, who fall under the purview of section 40A(2)(b) of the Act, its own liability under interest would have been reduced. With these observations, he computed the chargeable interest @ 12% on the above amount advanced to the sister concerns at Rs. 2,76,68,393, and disallowed the said amount out of the claim of interest made by the assessee. In support of this disallowance, he relied on the decision in *CIT* v. *V.I. Baby & Co.* [2002] 254 ITR 248/123 Taxman 894 (Ker.).

5. In Ground No. 2, the assessee has challenged the disallowance of interest of Rs. 2,76,68,393. The learned AR submitted that the amount of advances given by the assessee to the sister concern as at 31.03.2004 & at 31.03.2005, are as under:

(Rs. in thousands)

Sl. No.	*Name of the company*	*As at 31.3.2005*	*As at 31.3.2004*	*Increase*
1.	Krishnapatnam Port Co. Ltd.	170078	117434	(+) 52644
2.	Natco Organics Ltd.	58151	41750	(+) 16401
3.	Natco Drug & Fine Chemicals	41	-	(+) 41
4.	Natco Trust	1286	-	(+) 1286
5.	Krishnapatnam Rail Road Ltd.	364	-	(+) 364
6.	Nat Soft Information Pvt. Lt.	650	-	(+) 650

6. The AR submitted that during the previous year there was increase in advances given to Krishna Patnam Port Co. Ltd., Natco Organics Ltd., Natco Drugs and Fine Chemicals, Natco Trust, Krishnapatnam Rail Road Pvt. Ltd., and Natsoft Information Pvt. Ltd.

7. The Learned AR submitted that such advances were given during the year out of the net profit of Rs. 74,96,583/- earned and depreciation of Rs. 5,84,17,797/- available during the previous year. It was further stated that the company has repaid certain portion of the term loan taken in

earlier years from different financial institutions and banks. It was stated that there was no increase in term loans from the banks/financial institutions as on 31.03.2005 compared to 31.03.2004. Parts of the term loan and cash credit were repaid. Stating that the advances were given to group companies out of profits generated from the operations of the business of the company and not from loans taken from the banks/financial institutions, the assessee contended that the Assessing Officer was not justified in making the above disallowance out of interest claimed by it. In this regard, reliance was placed on the decisions in the cases of *Saleem Chawda* v. *ITO* [2006] 150 Taxman 47 (Jodh.) (Mag.), *CIT* v. *Radico Khaitan Ltd.* [2005] 142 Taxman 681 (All.), *Malwa Cotton Spinning Mills* v. *Asstt. CIT* [2004] 89 ITD 65 (Chd.) (TM), *CIT* v. *Tin Box Co.* [2003] 260 ITR 637/[2004] 135 Taxman 145 (Delhi), and *S.A. Builders Ltd.* v. *CIT (Appeals)* [2007] 288 ITR 1/158 Taxman 74 (SC).

8. The AR further submitted that the CIT(A) ought to have seen that borrowed funds were not utilised by the assessee for advancing monies to its group companies and the monies advances were from out of the monies generated from the operations of its business and no additional borrowings were made to finance such advances and in fact the assessee repaid part of term loans raised in earlier years and, therefore, no interest can be disallowed. The CIT(A) ought to have seen that as per the details of secured/unsecured loans in the Balance Sheet of the assessee-company as on 31.3.2005, there was decrease in borrowings and thus no part of the borrowing can be said to have been utilised for advancing monies to the group companies by the assessee during this assessment year. The CIT(A) ought to have seen that the amounts were advanced to its sister companies only from out of its own funds only and not from out of borrowed funds and the funds advanced due to commercial expediency and hence there is no justification in disallowing proportionate interest from out of the interest paid by the assessee in view of the decision of the Supreme Court in the case of *S.A. Builders Ltd.* (*supra*).

9. The learned AR submitted that the advances have been given to these companies in earlier assessment years and these advances have been given out of own funds and similar issue has been decided by the Tribunal in earlier year. Specifically, he relied on the order of the Tribunal dated 29.2.2012 in ITA No. 765/Hyd/2011 for the A.Y. 2007-08 in assessee's own case and order of the Tribunal in ITA Nos. 36 & 60/Hyd/09 for A.Y. 2004-05 dated 23.7.2010.

10. On the other hand, the learned DR submitted that the same issue came for consideration in A.Ys. 2003-04 and 2004-05 and as there is no commercial expediency to advance these loans, the interest was disallowed. He submitted that on one hand the assessee is incurring huge interest expenditure and on the other the assessee has advanced interest free loans to the other companies. Further he submitted that as there was no business expediency to make such advances, it cannot be allowed. He relied on the judgement of P & H High Court in the case of *CIT* v. *Abhishek Industries Ltd.* [2006] 286 ITR 1/156 Taxman 257.

11. We have heard both the parties and perused the material on record. The assessee has made fresh advances to the sister concerns in the assessment year under consideration in addition to earlier year advances. The plea of the assessee is that the interest accrued on these advances has been accounted in assessee's books of account in subsequent assessment year 2007-08 and offered to tax. According to the learned AR similar issue came for consideration before this Tribunal in assessee's own case in assessment year 2007-08. The Tribunal in ITA No.

765/Hyd/2011 vide order dated 29.2.2012 held that if the interest has been charged on advances made by the assessee in subsequent assessment year in its entirety, then there cannot be any further addition in the assessment year under consideration. We have considered this argument also. The assessee also taken a plea before us that though the advances made by the assessee to its sister concerns at free of interest in earlier year, however, the interest on these advances has been accounted in subsequent years. Being so, the order of the Tribunal cited supra is to be followed. We are in full agreement with the argument of the assessee's counsel for this proposition, if the advances made by the assessee to its sister concerns at free of interest on commercial expediency as prevailing in the earlier year. The assessee before us made contradictory arguments that it has offered the interest on these advances in subsequent years, being so it cannot be brought into tax in assessment year under consideration. In our opinion, one has to see the method of accounting employed by the assessee. The assessee being following mercantile system of accounting, it has to be accounted on accrual basis. On the other hand, if it is following cash system of accounting, it can be accounted on cash basis. In the present case, the assessee is following mercantile system as such interest has to be accounted on accrual basis. If there is a mutual transaction between the assessee and the sister concerns to whom the assessee made interest free advances then it has to be considered as advances made by the assessee on account of commercial expediency. Simply it cannot be accepted that this issue is covered by the earlier order of the Tribunal unless the facts in the present assessment year are similar to earlier year as considered by the Tribunal. Being so, the Assessing Officer is required to examine whether there is mutual transaction between the assessee and its sister concerns, i.e., buying and selling or rendering of services between the assessee and the sister concerns in this assessment year also. If it is so, the Assessing Officer has to consider that the advances were made on account of commercial expediency. Accordingly, we remit the entire issue back to the file of the Assessing Officer to consider the issue afresh and decide accordingly.

12. The next ground is with regard to sustaining of disallowance of advances written off at Rs. 5,21,62,330. Brief facts of the issue are that the assessee has challenged the disallowance of Rs. 5,21,62,330 towards creditor advances written off. During the assessment proceedings the Assessment Officer noticed that the assessee has written off a sum of Rs. 5,70,09,063 towards creditor advances. The entire amount pertains to 461 parties, out of which the amount of advance in respect of 110 parties exceeds Rs. 1,00,000, and in case of the remaining 351 parties the amount of advance is less than Rs. 1,00,000. As noted by the Assessing Officer, the assessee could furnish the desired details sought for by him only in respect of two parties i.e. Chokilam Constructions (amount of advance shown at Rs. 37,91,178) and Mohd. Shofiuddin (amount of advance shown at Rs. 10,55,555). In respect of the remaining 459 parties, the assessee merely furnished the names of those parties. It could not furnish the address of those parties. The assessee has submitted that advances were made to those parties either for supply of material or for rendering services. The assessee has claimed that those parties have failed to supply goods/render services and the advance amount could not be recovered from them. As further noted by the Assessing Officer, the assessee has submitted whereabouts of some of the parties were not known and some parties have refused to return the advances. However, the Assessing Officer was not convinced with such submissions of the assessee. He noted that the said amounts are not bad debts and hence provisions of section 36(2) are not applicable to the same. He noted that the assessee has not filed account copies of those parties. It failed to furnish any evidence regarding the nature of goods and services those parties were to render to the assessee. He further

mentioned that the assessee has not filed any evidence regarding the efforts made by it to recoup the advances. He further noted that most of the parties are well known concerns. With these reasons, he held that the claim of the assessee for deduction of the amount of Rs. 5,21,62,330 cannot be allowed. Thus, he disallowed the said amount.

13. The learned AR submitted that the said amount of Rs. 5,21,62,330 were given as advances to various parties, either for materials or for rendering services. The parties have failed to supply goods/ render services and the advance amount could not be recovered from them as the whereabouts of some of the parties are not known and some parties have refused to return the advances. In these circumstances, the assessee wrote off the advances. The Assessing Officer is not justified in disallowing the said amount. In this regard, the AR relied on the decisions in *CIT* v. *Morgan Securities & Credits (P.) Ltd.* [2007] 292 ITR 339/162 Taxman 124 (Delhi), *CIT* v. *Autometers Ltd.* [2007] 292 ITR 345/[2008] 167 Taxman 286 (Delhi)], and *CIT* v. *Anjani Kumar Co. Ltd.* [2003] 259 ITR 114/[2002] 124 Taxman 429 (Raj.). The AR further relied on the order of the Tribunal in the case of *Dy. CIT* v. *Edelweiss Capital Ltd.*, Mumbai [ITA No. 3971/Mum/2009, dated 15th February, 2011] wherein held that amount written off as irrecoverable represents the business loss u/s. 28 of the Act.

14. The AR further submitted that the CIT(A) failed to see that the said amount represents advances to various parties either for materials or for rendering services and since the parties have failed to supply goods/render services the advance amounts could not be recovered from them as the whereabouts of some of the parties are not known and some parties have refused to return the advances. Hence, there is no justification in disallowing the said advances while completing the assessment. The CIT(A) ought to have seen that if such advances written off are not allowable as bad debts the same are allowable as deduction towards business loss and, therefore, not justified in holding that such advances cannot be allowed as deduction as trading loss.

15. On the other hand, the learned DR submitted that as stated by the Assessing Officer and also as seen from the list furnished before the CIT(A), the said amount has been claimed under 'creditors advances written off'. As rightly stated by the Assessing Officer, the same does not fall under the purview of bad debts and hence, cannot be allowed deduction. It is merely stated that the advances were made to various parties either for materials or for rendering services. However, it has not been stated as to when and for which specific purpose such advances were made. The addresses of those parties have not been furnished before the Assessing Officer nor before the CIT(A). From a cursory glance of the said list, it can be seen that huge amounts have been claimed against well-known and reputed concerns including Government of India undertakings. As per the said list, a sum of Rs. 1,80,330 is shown against Container Corporation of India, Rs. 2,00,000 shown against Divya Electricals, a sum of Rs. 2,42,000 shown against Reliance Industries Ltd., a sum of Rs. 2,91,554 shown against Gujarat Alkalies & Chemicals Ltd., Rs. 3,42,372 against The Indian Hotels Ltd., a sum of Rs. 7,56,886 shown against Ranbaxy Laboratories Ltd., a sum of Rs. 9,19,880 shown against Sun Pharmaceuticals Ltd., a sum of Rs. 11,52,649 shown against IOC Ltd., a sum of Rs. 11,74,949 against Hindustan Petroleum Corporation, a sum of Rs. 22,23,165 shown against Singareni Collieries Co. Ltd., and a sum of Rs. 30,40,938 against Voltas Ltd., etc. It is unbelievable that such well known reputed concerns, including Government Undertakings, have refused to return the advances. As stated above,

various amounts shown against different parties, do not constitute trade debt, and unless it is a trade debt, the same cannot be allowed deduction, following ratio of decision of Hon'ble Andhra Pradesh High Court in *CIT* v. *Sirpur Paper Mills* [1983] 144 ITR 393. In this context, it is pertinent to reproduce the observations made by the Hon'ble High Court in the said decision:

"In *A. E. Thomas & Co. Ltd.* v. *CIT* [1963] 48 ITR (SC) 67; it was pointed out that a loan to be treated as a debt and the same to be allowed as a deduction under s. 10(2)(xv) of the Act, it should be a debt which, if good, would have swelled the taxable profits of the assessee. In this case it is obviously not a debt of that type as the recovery of that debt would not in any way go to swell the taxable profits of the assessee. Therefore, it is not a trade debt or a business debt as such and no deduction can be claimed with regard to the same."

16. The DR further submitted that the said amounts towards advances made to different parties cannot be allowed deduction as trading loss. In this regard, he placed reliance on the decisions in *Greaves Ltd.* v. *CIT* [2001] 251 ITR 190/116 Taxman 771 (Bom.), *Hasimara Industries Ltd.* v. *CIT* [1998] 230 ITR 927/98 Taxman 303 (SC), *Hasimara Industries Ltd.* v. *CIT* [1998] 231 ITR 842/98 Taxman 352 (SC), *Distillers' Trading Corpn.* v. *CIT* [2001] 252 ITR 795/115 Taxman 526 (Delhi), *CIT* v. *R.G. Scientific Enterprises (P) Ltd.* [2008] 166 Taxman 161 (Delhi) and *Kwality Fun Foods & Restaurants (P.) Ltd.* v. *Dy. CIT* [2007] 108 ITD 274 (Chennai). Thus, for the reasons stated above and having regard to the ratio of above cited decisions including that of the Hon'ble Supreme Court in both the cases of *Hasimara Industries Ltd.* (*supra*), and of Hon'ble jurisdictional High Court in the case of *Sirpur Paper Mills* (*supra*), the assessee cannot be allowed deduction for the claim of Rs. 5,21,62,330 towards creditor advances written off. Hence, the said disallowance made by the Assessing Officer in the assessment order is justified. Further he submitted that test to allow the expenditure u/s. 37 is not fulfilled. No address of the parties has been submitted. The claim of the assessee is not verifiable. He relied on the order in the case of 263 ITR 701.

17. We have heard both the parties and perused the material on record. There is an amendment to the provisions of section 36(1)(vii) of the Act w.e.f. 1.4.1989 applicable to the A.Y. 1989-90 thereby claim of bad debts or part thereof has to be allowed for and from the A.Y. 1989-90 in the year in which such bad debts or part thereof has been actually written off as irrecoverable in the accounts of the assessee for the relevant previous year. The assessee plea before us that the impugned debt had actually been written off in the books of account of the assessee. Effect of the said amendment is that it is not necessary for the assessee to establish that a debt had become bad in the previous year, before getting deduction, and mere write off as irrecoverable of debt or part thereof is substantial compliance with the provisions of section 36(1)(vii) of the Act. The question is, if the said entry of write off of bad debts or part thereof made in the books of account is conclusive and Assessing Officer is precluded from making enquiries, before receiving/accruing the deduction under the scheme as provided for under the Income-tax Act, entries which have been made as to whether the same are genuine entries or imaginary and fanciful entries, qua the same the Assessing Officer is fully empowered to make enquiry, however, wisdom of the assessee cannot be in such manner questioned and no demonstrative or infallible proof of bad debt having become bad is required, and commercial expediency is to be seen from the point of view of the assessee, depending on the nature of transaction, capacity of debtor, etc., but qua entry, semblance of genuineness has to be there and the same should not be

mere paper work. All the citations put before us by the assessee's counsel wherein genuineness of the entries was never doubted therein, wherein in case any specific doubt has been expressed by the lower authorities regarding genuineness thereby required to furnish by the assessee i.e., (a) complete name and address of the persons, (b) ledger accounts of these persons and (c) efforts made to realised the dues. It is a fact that queries by the Assessing Officer were not properly addressed by the assessee and requisite information was not furnished. The only plea made by the assessee is that the debt has been written off in the books of account and no further proof is required. U/s. 143(2) of the Act the Assessing Officer is empowered to require the assessee to produce the evidence in support of the return, as such where the assessee has claimed as bad debt or part thereof, written off as irrecoverable in the accounts of the assessee under the provisions of section 36(1)(vii) of the Act, then on the strength of the amendment made on April 1, 1989, it cannot be said that an inquiry is not permissible under the provision of the Income-tax Act to see and satisfy that there is some semblance of the genuineness in the entry, which had been made, the same is not at all totally fake entry as the assessee would be entitled for deduction only if it is bad debt, or part thereof. The Hon'ble apex Court in the case of *Travancore Tea Estates Co. Ltd.* v. *CIT* [1999] 233 ITR 203 has taken the view, that as to whether a debt has become bad or at what point of time it became bad, are pure questions of fact. Though standard of proof of proving the same as bad debt, is not required to be adopted and is to be decided on the wisdom of the assessee and not on the wisdom of AO, but to show that entry which had been made as bad debt there has to be some material in support of the same, giving some semblance of genuineness and truthfulness to the same in the direction of forming opinion, that said debt was arising out of trading activity, there was relationship of debtor or creditor, same was irrecoverable. Merely because entries have been made, in respect of bad debt or part thereof, writing it off, claiming deduction, the said entries can always be examined by the AO, before proceeding to award deductions, and not by merely blindly following the same, but stand of the assessee has to be tested from the point of view of assessee, and assessee cannot come forward and say that on account of change brought in by way of amendment w.e.f. 1st April, 1989, under s. 36(1)(vii) inquiry is not permissible.

18. Thus, as it is evident from the provisions of section itself, the Assessing Officer as well as the appellate authority have examined the claim of the assessee and held that the assessee has failed to prove that the debt in question had actually become irrecoverable during the previous year in question. The assessee only furnished list of debts and the details called for by the authorities have not been furnished. The claim of the bad debts has been disallowed by considering the material on record by finding as a fact that the debt has not been proved as bad debt. Even otherwise as held by the jurisdictional High Court in the case of *Sirpur Paper Mills* (*supra*) only the debt which constitutes trade debt could be claimed as bad debt if it is irrecoverable. In the present case it is observed by the lower authorities that the debts which were written off were not trade debts as seen from para 13.2 of the CIT(A) order. Accordingly, we confirm the order of the CIT(A) on this issue.

19. The next ground in this appeal is with regard to sustaining disallowance of Rs. 24,75,026 towards advances given to employees. Brief facts of the issue are that the assessee challenged disallowance of tour advance to staff written off. As noted by the Assessing Officer, the assessee has written off staff advance of Rs. 24,75,025. In response to query raised by the Assessing Officer for explaining such claim, the assessee has submitted that the same represents tour/staff

advances/imprest advances given to various field staff and marketing personnel for business tour and for meeting expenses. The assessee further submitted that many of the staff members did not render accounts for advance availed by them and many of them have left the company. The assessee has claimed that the amounts could not be recovered from them and thus the same were written off. However, the Assessing Officer was not convinced with such explanation. He noted that the assessee could have recovered the amounts by way of deduction from salary and from the respective terminal benefits of the concerned staff members. He further noted that the said amounts are not bad debts and the provisions of section 36(2) are not applicable. Since the said amounts relate to advances to staff, according to him, the burden lies on the assessee to prove that it has made all efforts to recover the amounts from them. With this reasoning, the Assessing Officer rejected the contention of the assessee and thus disallowed the said amount of Rs. 24,75,026.

20. The learned AR submitted that the said amount of Rs. 24,75,026 comprises of Rs. 10,57,281 towards staff advances, Rs. 8,03,012 towards tour advances and Rs. 6,14,733 towards field staff imprest. It was stated that such advances were given to their employees towards salary, travelling, lodging and boarding, and conveyance etc., on their visit to different places in the course of carrying on the business. The assessee has written off the said amount as it could not recover the same from its employees and they have left the company without settling their dues. The AR submitted that the Assessing Officer was not justified in disallowing the said claim in the assessment. For this purpose the AR placed reliance on the decision of ITAT, Mumbai Bench in the case of *Datamatics Ltd.* v. *Asstt. CIT* [2007] 15 SOT 589/[2008] 110 ITD 24 (Mum.).

21. Further the learned AR submitted that the CIT(A) ought to have seen that it had given advances to its employees towards salary, travelling, lodging and boarding, conveyance, imprest to filed staff etc., for their visits to various placed in the course of carrying on the business and such advances of Rs. 24,75,026 were written off as the assessee could not recover the same from some of the employees as those employees had left the organisation without settling their dues. Therefore, the CIT(A) is not justified in sustaining the disallowance of advances of Rs. 24,75,026 written off by the assessee.

22. The learned DR submitted that the assessee's contention is that the amounts have been advanced to their employees towards salary and for travelling in connection with visit of those employees to different places during course of business of the assessee company. Thus, admittedly, the said amounts were not in the nature of debts and hence, as rightly stated by the Assessing Officer, the same cannot be considered as bad debts. From the list of such advances written off, furnished before the CIT(A), it can be seen that a sum of Rs. 1,65,912 is shown against Sri S. Kishore Kumar. It has not been explained as to when and for which purpose such huge amount has been given to that employee. A sum of Rs. 6,37,100 is shown as sundry advance - staff. It has not been explained as to who were those persons and when the said amount was advanced. Similarly, though a sum of Rs. 6,14,733 is shown under imprest for field staff, details thereof have not been furnished. Further, a sum of Rs. 3,35,452 is shown against resigned employees salary advances. It has not been clarified as to when and who are those employees to whom amounts had been advanced. Further, as rightly pointed out by the Assessing Officer, the assessee could have recovered the advance amounts from their PF and other dues payable by the company. Under these circumstances, the entire claim of Rs. 24,75,026 made by

the assessee towards tour advance to staff written off, is not admissible. Further, the said claim not being in the nature of any trade debt, relying on the ratio of decision of Hon'ble jurisdictional High Court in the case of *Sirpur Paper Mills* (*supra*), the said amount cannot be allowed deduction as revenue expenditure. In this view of the matter, the said disallowance made by the Assessing Officer is justified.

23. We have heard both the parties and perused the material on record. As submitted by the DR if it is an expenditure incurred in respect of its business, it should have been claimed during the relevant assessment year and if it is a debt it should have been advanced in respect of trade or business of he assessee and it should have gone to computation of income of the assessee in the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year or represents money lent in ordinary course of business. In the present case the assessee is not able to lead any evidence how it has gone into computation of income of the assessee in the assessment year under consideration or in any other assessment year. Being so, we are of the opinion that findings of the lower authorities in disallowing the claim of the assessee are justified. We confirm the order of the CIT(A).

24. Now we will take up ITA No. 487/Hyd/2010. The first ground in this appeal is with regard to disallowance of interest on loans given to group companies. Similar issue is considered by us in the earlier paras in ITA No. 377/Hyd/2009. Accordingly, this ground is remitted back to the Assessing Officer on similar direction.

25. The next ground is with regard to disallowance of bad debts. Similar issue came for consideration in earlier paras of this order in assessee's appeal No. 377/Hyd/2009. This ground is dismissed.

26. Now we will take up ITA No. 686/Hyd/2010 for A.Y. 2006-07 by the Revenue wherein the Revenue challenged deletion of Rs. 15 crores though the assessee not produced relevant evidence before the Assessing Officer in spite of giving opportunity to the assessee.

27. Brief facts of the issue are that the Assessing Officer while computing the income of the assessee made an addition of Rs. 15 crores u/s. 68 of the Act received from M/s. Krishnapatnam Port Co. Ltd., the details are as follows:

Date	*Cheque No.*	*Amount (Rs.)*
14.7.2005	708985	10 crores
18.7.2005	708986	5 crores
		15 crores

28. The above amount is received by cheque from Sri V.C. Nannapaneni, Chairman who is Managing Director of the company. The assessee was asked to furnish details of source of this fund. However, the assessee failed to produce the details. Hence the addition is made by the Assessing Officer. On appeal, the CIT(A) deleted the same observing that the amount was received from Mr. V.C. Nannapaneni, CMD of that company. The sources of this fund was by

sale of shares and he has received the money from M/s. Navayuga Engineering towards sale of shares and he declared the capital gain of Rs. 59.92 crores on sale of shares and paid tax of Rs. 11.9 crores and he found from the bank account of the ICICI Bank, the transaction is correct and deleted the addition. Against this the Revenue is in appeal before us.

29. We have heard both the parties and perused the material on record. The Assessing Officer called for information at the time of assessment. The assessee failed to produce the same. The Assessing Officer has no occasion to examine the evidence produced before the CIT(A) by the assessee. The CIT(A) ought to have called for a remand report before deleting the addition. In the interest of justice, we remit the entire issue back to the Assessing Officer for fresh consideration in the light of evidence submitted before the CIT(A).

30. In the result, both the assessee's appeals and the Revenue appeal are allowed for statistical purposes.