

# **BOMBAY HIGH COURT**

Commissioner of Income Tax and Excess Profits Tax

Vs.

Jwala Prasad

Income-tax Ref. No. 20 of 1953

(Chagla, C.J. and Tendolkar, J.)

04.09.1953

## **JUDGMENT**

### **Chagla, C.J.**

1. This reference raises a very short question with regard to what constitutes writing off of a bad debt or doubtful debt within the meaning of Section 10 (2)(xi).
2. The assessee claimed as a permissible deduction a sum of Rs. 66,483 in the relevant year, and his case was that this amount represented debts which were irrecoverable, and it is not in issue that these debts were irrecoverable. The only point urged by the Department before the Tribunal was that they had not been written off as required by the section and therefore they were not permissible deductions.
3. Now, what Section 10(2)(xi) requires is that the amount must be actually written off as irrecoverable. What the assessee did in this case was that he debited two amounts of Rs. 57,358 and Rs. 9,125 to the profit and loss account. Rs. 57,358 was credited to Asami Khad Khata account, which means persons who have become insolvent or who have failed to pay, and the entry itself shows that inasmuch as these persons had failed in the forward business these amounts were being debited to the profit and loss account and credited to this Asami Khad Khata account. The other item of Rs. 9,125 was credited to the Shah account and it was stated against the entry of Rs. 9,125 that these amounts cannot be recovered.
4. Now, the whole of the argument of Sir Nusserwanji is that writing off can only be achieved by the accounts of the respective debtors in the books of the assessee being credited with the amount in respect of which they have been indebted to the assessee. Sir Nusserwanji says that the accounts do not show that the amounts have been written off because these amounts were still shown in the account as being due to the assessee. Sir Nusserwanji says it is not enough that the

profit and loss account should be debited, but it is essential that the accounts of the debtors should be adjusted by writing off the amounts.

But in advancing this contention what is overlooked is that Section 10(2)(xi) does not merely permit an assessee to claim relief in respect of a bad debt but it also gives him a right to claim relief in case of a doubtful debt. It is open to a businessman to take a view that the debt is entirely bad and there is absolutely no possibility to recover it, in which case he may debit the profit and loss account and credit the amount of his debtor; or it may be that a businessman may take a view that the debt is not bad but doubtful, in which case he would not take the risk of closing the account of his debtor but he may debit the profit and loss account and he may make corresponding entry in another appropriate account. This is exactly what the assessee has done in this case in respect of both the items which he has debited, to the profit and loss account. In respect of one, viz., Rs. 57,358 he has credited it to Asami Khad Khata account, which means a person who is civilly or financially dead, and in respect of the other, viz., Rs. 9,125, he has credited it to the Shah account, which is a suspense account. Sir Nusserwanji further forgets that Section 10(2)(xi) does not require that the amount should be written off in the account of the debtor. What the section requires is that the amount should be written off in the books of the assessee, and there could not be the slightest doubt that looking to the books of the assessee, the amount has been written off. There is no more striking or significant way of writing off the amount than by debiting the amount to the profit and loss account.

5. In our opinion the Tribunal was right in the view it took, and we must answer the question submitted to us in the affirmative. The Commissioner to pay the costs.  
Answered affirmatively.