

Even if advance forfeited by supplier wasn't allowable as bad-debt, yet it could be considered as business loss

Summary – The Guwahati ITAT in a recent case of Amines & Plasticizers Ltd., (the Assessee) held that where supplier refused to return amount advanced by assessee for purchasing raw material as assessee did not honour transaction, amount in question could not be considered as debt at all and assessee could not be allowed benefit of section 36

Facts

- The assessee advanced certain amount to a Singapore based company EIPL against purchase of raw material.
- EIPL dispatched goods as per order of the assessee but assessee did not take the delivery
- EIPL refused to refund amount of advance.
- The assessee debited said amount under the head 'Sundry balances written off'.
- The Assessing Officer disallowed assessee's claim on the ground that amount was not actually written off during relevant period.
- The Commissioner (Appeals) dismissed the assessee's appeal.
- On second appeal:

Held

- The disputed amount was paid to EIPL as an advance for purchasing the raw material. The assessee did not honour the transaction. The EIPL refused to return the money. In the circumstances, it cannot be said that it was a bad debt. Actually it was not a debt at all. It was an advance only, so the assessee cannot get the benefit of section 36. However, the claim made by the assessee about business loss has to be considered because the genuineness of the payment and its relation with the business of the assessee is not denied by any of the authorities.
- It is found that the amount has been written off in the year under consideration. In these circumstances, matter should be restored back to the file of the FAA to decide the issue afresh after affording reasonable opportunity of hearing of the assessee.