IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH ' I ' MUMBAI

BEFORE SHRI R S PADVEKAR, JM & SHRI RAJENDRA SINGH, AM

ITA No. 6573/Mum/2009
(Asst Year 2005-06)

Jayant Oil Products P Ltd 5A Menek, 11 L D Ruparel Marg Mumbai 400 006	Vs	The Asst Commr of Income Tax 5(2), Mumbai
(Appellant)		(Respondent)

PAN AAACJ2717J

Assessee by: None
Revenue by: Shri S H Singh, Sr AR

ORDER

PER R S PADVEKAR:

In this appeal, the assessee has challenged the impugned order of the ld CIT(A)- 9, Mumbai for the assessment year 2005-06 dated 7.10.2009.

2 Notice of hearing dated 17.6.2010 was served on the assessee by RPAD intimating that this appeal was fixed for hearing on 28.7.2010. But at the time of hearing none appeared on behalf of the assessee and no application seeking for adjournment is filed. The ld DR for the revenue was present. We, therefore, of the opinion that the assessee is not interested in prosecuting its appeal; accordingly, we proceed to dispose of this appeal on merit after hearing the ld DR.

3 First issue relates to disallowance of debts written off of Rs.2,15,560/.

3.1 The assessee company is engaged in manufacture of chemicals based derivatives of castor oil. The assessee's case was selected for scrutiny for the assessment year 2005-06 and the assessment was completed u/s 143(3) of the Act. The AO noticed that the assessee has written off sundry balances of Rs.2,15,560/- which was shown under the head "establishment and other expenses". The AO asked for the details and justification to write off the said sundry balances. The assessee only filed the names of the parties and the amounts written off. As noted by the AO, no details were filed in respect of the year in which the said amounts were considered in computing the income. The AO disallowed the claim of the assessee and added the same to the total income of the assessee. The assessee carried the issue before the ld CIT(A), before whom also the assessee remained absent. Hence, the case was decided ex-parte.

4 As per well settled law by the decision of the jurisdictional High Court as well as the Supreme Court that if the bad debts are written off in the books of account and also fulfil the conditions laid down u/s 36(2) then it is not necessary on the part of the assessee to prove whether the debts has become bad. In our opinion, this issue needs re-verification as the required facts are not on record. Therefore, we consider it fit to restore this issue to the file of the AO with the direction to examine the allowability of the expenditure after considering the decision of the Supreme Court in the case TRFL vs CIT (230 CTR 40(SC). Accordingly, ground no.1 is allowed for statistical purpose.

5 Next issue relates to disallowance of the telephone expenses of Rs.37,283/-.

5.1 We have heard the ld DR. The assessee has claimed telephone expenses of Rs. 3,72,869/-. The AO disallowed 10% out of the said expenses on the reasons that personal and non-businesses. The ld CIT(A) also confirmed the action of the AO.

5.2 The ld DR argued that reasonable disallowance was made by the AO as the assessee was failed to prove that the entire expenditure was for the purposes of business.

6 After considering the totality of the facts and circumstances of the case, we are of the view that no interference is called for in the findings of the ld CIT(A); accordingly, the same is confirmed.

7 In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced on the 13th, day of Aug 2010.

Sd/- Sd/-

(RAJENDRA SINGH) Accountant Member	**(R S PADVEKAR)** Judicial Member

Place: Mumbai : Dated: 13th,Aug 2010
Raj*

Copy forwarded to:

1	Appellant
2	Respondent
3	CIT
4	CIT(A)
5	DR

/TRUE COPY/
BY ORDER

Dy /AR, ITAT, Mumbai