

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH; AMRITSAR.**

BEFORE SH. T. S. KAPOOR, ACCOUNTANT MEMBER
AND SH. N. K. CHOUDHRY, JUDICIAL MEMBER

I.T.A. No. 61/(Asr)/2017

Assessment Year: 2013-14

PAN: AAAAT4125G

The Dy. C. I. T.
Circle-II, Jalandhar.

(Appellant)

Vs. The Nawanshahr Central Co-op.
Bank Ltd. Nawanshahr, Distt.
Doaba.

(Respondent)

Appellant by : Sh. S. S. Kanwal (D. R.)

Respondent by: Sh. Rakesh Joshi (Adv.)

Date of Hearing: 24.10.2017

Date of Pronouncement: 03.01.2018

ORDER

PER T. S. KAPOOR (AM):

This is an appeal filed by revenue against the order of Ld. CIT(A), Jalandhar, dated 16.12.2016 for Asst. Year: 2013-14.

2. The grounds of appeal taken by revenue are reproduced below:

"1. That on the facts and in the circumstances of the case the Ld. CIT(A) has erred in law as well as on facts in deleting the addition of Rs. 1,13,35,169/- made by the A.O. on account of disallowance of interest on Non Performing Assets."

1(a). That while deleting ^he above addition of Rs. 1,13,35,169/-Ld. CIT(A) has erred on facts as well as in law by ignoring the fact that the assessee is neither following Mercantile System of Accounting nor Cash System of Accounting and is in fact following a mixed/hybrid system of accounting, which is not a recognized system of accounting.*

2. That on the facts and in the circumstances of the case the Ld. CIT(A) has erred in law as well as on facts in deleting the addition of Rs. 34,00,000/- made by the A.O. on account of disallowance of Provision against Standard Assets.

1(a). That while deleting the above addition of Rs. 34,00,000/-Ld. CIT(A) has erred on facts as well as in law by ignoring the fact that this disallowance was made by the A.O. in the light of provisions of section 36(l)(viii) of the Income Tax Act, 1961 wherein only provisions in case of "bad and doubtful debts" has been mentioned as allowable whereas in assessee's case the provision pertains to "Standard Assets"

3. It is prayed that the order of the Ld.CIT(A) be set-aside and that of the Assessing Officer restored.

4. That the appellant requests for leave to add or amend or alter the grounds of appeal before the appeal is heard and disposed off.

3. At the outset, the Ld. AR submitted that the issues involved in this case are squarely covered in favour of the assessee by the order of the Hon'ble Tribunal in ITA No. 652/Asr/2015, 604&605/Asr/2016 in the case of M/s Jalandhar Central Cooperative Bank Ltd. and also covered by the order of the Tribunal in the case of M/s Punjab Gramin Bank and Moga Central Cooperative Bank Ltd. vide order dated 04.10.2017 and 15.03.2017 respectively.

4. The Ld. AR submitted that the issues involved are additions on account of provision of interest on Non Performing Assets and disallowance of provisions against standard assets.

5. The Ld. DR fairly accepted that the issues are covered in favour of the assessee.

6. We have heard the rival parties and have gone through the material placed on record. We find that the Assessing Officer has disallowed the provisions which the assessee has made on standard assets and has also made addition on account of interest on Non Performing Assets which the assessee had not taken into account. We find that these issues are

squarely covered in favour of the assessee by the orders of the Tribunal in the case of M/s Punjab Gramin Bank and also in the case of Moga Central Cooperative Bank. The findings of the Hon'ble Tribunal in the case of Moga Central Cooperative Bank are reproduced below:

“6. We have heard the rival parties and have gone through the material placed on record. We find that the issue involved in these appeals, is regarding non declaration of interest income on non performing assets by the assessee. The Hon'ble Amritsar Bench in the case of Jalandhar Central Co-operative Bank Ltd. vide its order dated 20.01.2017 has dismissed the appeals filed by revenue and similarly in the case of Kapurthala Central Co-operative Bank Ltd., the Amritsar Bench has again dismissed the appeals filed by revenue on similar issue. The Hon'ble Chandigarh Bench vide its order dated 03.01.2017 in ITA No. 526/Chd/2013 has also dismissed the appeal filed by revenue under same facts and circumstances. While dismissing the appeal, the Hon'ble Tribunal has discussed the case law of Hon'ble Supreme Court in the case of State Bank of Travancore and has held that it has been overruled by the Apex Court itself in the case of UCO Bank Ltd. (supra) and therefore the grievance of the revenue is not justified. For the sake of completeness the decision of the Hon'ble Chandigarh Bench of Tribunal in the case of Ludhiana Central Co-operative Bank Ltd. The findings of Hon'ble Tribunal as contained from para 13 are reproduced below:

“13. We find that the issue of accounting for interest on sticky loans/NPA's, has been dealt with in a number of decisions both by the Apex Court and various High Courts and Tribunals also, wherein after applying the “Real Income Theory”, the prescribed Accounting Standard issued by ICAI on Revenue Recognition, AS-9, the accounting practice of the assessee relating to interest on sticky loans and the RBI guidelines relating to accounting for interest on NPA's, it was held that such income was taxable in the year of receipt only, when its realization becomes reasonably certain.

14. The Apex Court in the case of UCO Bank, Calcutta Vs. CIT, West Bengal (1999) 4 Supreme Court Cases 599 approved the receipt basis of accounting for interest on loans whose recovery was doubtful, holding 10 the same to be in accordance with accounting practice and in conformity with the method prescribed under section 145 of the Act. The relevant findings of the Apex Court are as follows:

“We have to consider whether interest on a loan whose recovery is doubtful and which has not been recovered by the assessee-bank for the last three years but has been kept in a suspense account and has not been brought to the profit and loss account of the assessee, can be included in the

income of the assessee for the assessment year 1981-82. It is the case of the assessee that in respect of loans which are advanced by it to various customers, recovery of some loans is very doubtful. It is doubtful whether even the interest on the loans advanced will be recovered from the customer. In such cases, the interest calculated on the loan amount is credited in a suspense account. This amount is not brought to the profit and loss account of the assessee-bank because these are amounts which are not likely to be realized by the bank. Hence they do not form a part of the real income of the bank. If and when any such amount or a part of it is recovered, it is included in that assessment year in the total income of the assessee for the purpose of payment of income-tax. The method of accounting which is followed by the assessee-bank is mercantile system of accounting. However, the assessee considers income by way of interest pertaining to doubtful loans as not real income in the year in which it accrues, but only when it is realized. A mixed method of accounting is thus followed by the assessee-bank. This method of accounting adopted by the assessee is in accordance with accounting practice. In Spicer and Pegler's Practical Auditing the relevant passage occurring at page 186-187 has been reproduced in the minority judgment of this Court in State Bank of Travancore v. Commissioner of Income-tax, Kerala [(1986) 158 ITR 102 at p.i2o]. It is as follows: "Where interest has not been paid, it is sometimes left out of account altogether. This prevents the possibility of irrecoverable interest being credited to revenue, and distributed as profit. On the other hand, this treatment does not record the actual state of the loan account, and in the case of banks and other concerns whose business it is to advance money, it is usual to find the interest is regularly charged up, but when its recovery is doubtful, the amount thereof is either fully provided against or taken to the credit of an Interest Suspense Account and carried forward and not treated as profit until actually received." Similarly, referring to interest on doubtful debts, Shukla and Grewal on Advanced Accounts, Ninth Edition at page 1089 state as follows: "Interest on doubtful debts should be debited to the loan account concerned but should not be credited to interest account. Instead, it should be credited to Interest Suspense Account. To the extent the interest is received in cash, the Interest Suspense Account should be transferred to Interest account; the remaining amount should be closed by transfer to the Loan account. This treatment accords with the 11 principle that no item should be treated as income unless it has been received or there is a reasonable certainty that it will be realized.

(Vide State Bank of Travancore v. CIT [supra]) The assessee's method of accounting, therefore, transferring the doubtful debt to an interest suspense account and not treating it as

profit until actually received, is in accordance with accounting practice.

Under Section 145 of the Income-tax Act, 1961, income chargeable under the head "profits and gains of business or profession or income from other sources" shall be computed in accordance with the method of accounting regularly employed by the assessee; provided that in a case where the accounts are correct and complete but the method employed is such that in the opinion of the Income- tax Officer, the income cannot properly be deduced therefrom, the computation shall be made in such manner and on such basis as the Income-tax Officer may determine. In the present case the method employed is entirely for a proper determination of income." (emphasis supplied by us)

15. Further the Apex Court also referred to the CBDT Circular dated 9th October 1984 stating that interest on loans on which there has been no recovery for 3 years will be subjected to tax on receipt basis, and held as follows:

"The question whether interest earned, on what have come to be known as "sticky" loans, can be considered as income or not until actual realization, is a question which may arise before several income tax officers exercising jurisdiction in different parts of the country. Under the accounting practice, interest which is transferred to the suspense account and not brought to the profit and loss account of the company is not treated as income. The question whether in a given case such "accrual" of interest is doubtful or not, may also be problematic. If, therefore, the Board has considered it necessary to lay down a general test for deciding what is a doubtful debt, and directed that all income tax officers should treat such amounts as not forming part of the income of the assessee until realized, this direction by way of a circular cannot be considered as travelling beyond the powers of the Board under Section 119 of the Income Tax Act. Such a circular is binding under Section 119. The circular of 9th of October, 1984, therefore, provides a test for recognizing whether a claim for interest can be treated as a doubtful claim unlikely to be recovered or not. The test provided by the said circular is to see whether, at the end of three years, the amount of interest has, in fact, been recovered by the bank or not. If it is not recovered for a period of three years, then in the fourth year and onwards the claim for interest has to be treated as a doubtful claim which need not be included in the income of the assessee until it is actually recovered."

16. This view was reaffirmed in a later judgment by the Apex Court in *Mercantile Bank Ltd., Vs. CIT, Bombay City-III (2006) 5 SSC 221.*

17. Further the issue of taxability of interest on NPA accounts on receipt basis by Cooperative Banks has been dealt with by various High Courts, wherein it was held that the assessee was bound by RBI guidelines to account for such interest on receipt basis and by virtue of the provisions of section 45Q of the RBI Act, the RBI guidelines had an overriding effect over other Acts including the Income Tax Act, 1961.

18. The Gujarat High Court in the case of Pr.CIT-5 Vs. Shri Mahila Sewa Sahakari Bank Ltd. (Tax Appeal No.531 of 2015 dated 5.8.2016 ,relying upon the decision of the apex court in Southern Technologies Limited vs JCIT, Coimbatore,(2010) 320 ITR 577,held that so far as Income Recognition was concerned even the AO had to follow the RBI Directions,1998 in view of section 45Q of the RBI Act and section 145 of the Income Tax Act had no role to play in the same. The Hon'ble Court held at para 20 to 23 of its order as follows:

“20. Section 45Q finds place in Chapter IIIB of the RBI Act. Thus, the provisions of Chapter IIIB of the RBI Act have an overriding effect qua other enactments to the extent the same are inconsistent with the provisions contained therein. In order to reflect a bank's actual financial health in its balance sheet, the Reserve Bank has introduced prudential 13 norms for income recognition, asset classification and provisioning for advances portfolio of the co-operative banks. The guidelines provided thereunder are mandatory and it is incumbent upon all co-operative banks to follow the same. Insofar as income recognition is concerned, clause 4.1.1 of the circular provides that the policy of income recognition has to be objective and based on the record of recovery. Income from non-performing assets (NPA) is not recognised on accrual basis but is booked as income only when it is actually received. Therefore, banks should not take to income account interest on non-performing assets on accrual basis. Thus, in view of the mandate of the RBI Guidelines the assessee cannot recognise income from non-performing assets on accrual basis but can book such income only when it is actually received. Thus, this is a case where at the threshold, the assessee, in view of the RBI Guidelines, cannot recognize income from NPA on accrual basis. This is, therefore, a case pertaining to recognition of income and not computation of the income of the assessee.

21. The Supreme Court in **Southern Technologies Limited** (supra) has held that the 1998 Directions are only disclosure norms and have nothing to do with computation of total income under the IT Act or with the accounting treatment. The 1998 Directions only lay down the manner of presentation of NPA provision in the balance sheet of an NBFC. The court has referred to the deviations between the RBI Directions and the Companies Act as follows:

"42. Broadly, there are three deviations:

- (i) *in the matter of presentation of financial statements under Schedule VI to the Companies Act;*
- (ii) *in not recognizing the "income" under the mercantile system of accounting and its insistence to follow cash system with respect to assets classified as 14 NPA as per its norms;*
- (iii) *in creating a provision for all NPAs summarily as against creating a provision only when the debt is doubtful of recovery under the norms of the accounting standards issued by the Institute of Chartered Accountants of India.*

These deviations prevail over certain provisions of the Companies Act, 1956 to protect the depositors in the context of income recognition and presentation of the assets and provisions created against them. Thus, the P&L account prepared by NBFC in terms of the RBI Directions, 1998 does not recognize "income from NPA" and, therefore, directs a provision to be made in that regard and hence an "add back". It is important to note that "add back" is there only in the case of provisions. [Emphasis supplied]

22. Therefore, in terms of the above decision, where an assessee makes provision for NPA and seeks deduction of such amount under section 36(1)(vii) or section 37 of the Act, then in the computation of income, the RBI Guidelines would have no role to play, and hence, an add back. Insofar as income recognition is concerned, the Supreme Court has held thus:

"Applicability of Section 145

57. *At the outset, we may state that in essence the RBI Directions, 1998 are prudential/provisioning norms issued by RBI under Chapter III-B of the RBI Act, 1934. These norms deal essentially with income recognition. They force the NBFCs to disclose the amount of NPA in their financial accounts. They force the NBFCs to reflect "true and correct" profits. By virtue of Section 45-Q, an overriding effect is given to the RBI Directions, 1998 vis-a-vis "income recognition" principles in the Companies Act, 1956. These Directions constitute a code by itself. However, these RBI Directions, 15 1998 and the IT Act operate in different areas. These RBI Directions, 1998 have*

nothing to do with computation of taxable income. These Directions cannot overrule the "permissible deductions" or "their exclusion" under the IT Act. The inconsistency between these Directions and the Companies Act is only in the matter of income recognition and presentation of financial statements. The accounting policies adopted by an NBFC cannot determine the taxable income. It is well settled that the accounting policies followed by a company can be changed unless the AO comes to the conclusion that such change would result in understatement of profits. However, here is the case where the AO has to follow the RBI Directions, 1998 in view of Section 45-Q of the RBI Act. Hence, as far as income recognition is concerned, Section 145 of the IT Act has no role to play in the present dispute."

Thus, insofar as income recognition is concerned, the court has held that even the Assessing Officer has to follow the RBI Directions, 1998 in view of section 45Q of the RBI Act and that as far as income recognition is concerned, section 145 of the Income Tax Act, has not role to play.

23. In the light of the above discussion what emerges is that while determining the tax liability of an assessee, two factors would come into play. Firstly, the recognition of income in terms of the recognized accounting principles and after such income is recognized, the computation thereof, in terms of the provisions of the Income Tax Act, 1961. Insofar as the computation of taxability is concerned, the same is solely governed by the provisions of the Income Tax Act and the accounting principles have no role to play. However, recognition of income stands on a different footing. Insofar as income recognition is concerned, it would be the RBI Directions which would prevail in view of the provisions of section 45Q of the RBI Act and section 145 would have no role to play.

Hence, the Assessing Officer has to follow the RBI Directions.

19. Further relying upon the decision of the Delhi High Court in the case of CIT Vs. Vasisth Chay Vyapar Ltd. (2011) 330 ITR 440, the Court held that the AO has to follow RBI directions on Revenue Recognition, and held as follows:

"25. The distinction drawn by the Delhi High Court is that while the accounting policies of adopted by the NBFC cannot determine the taxable income. However, insofar as income recognition is concerned, the

Assessing Officer has to follow the RBI Directions, 1998 in view of section 45Q of the RBI Act. That insofar as income recognition is concerned, section 145 of the Income Tax Act, 1961 has no role to play.”

20. *The Bombay High Court in the case of CIT Vs. Deogiri Nagari Sahakari Bank Ltd. & Others, 379 ITR 241 reiterated the above proposition by holding at para 9 of its order as follows :*

“9. The Income Tax Appellate Tribunal has referred the case of M/s. Vasisth Chay Vyapar Limited 330 ITR 440 (Delhi). In this case, the revenue relied upon the decision of the Hon'ble Supreme in the case of Southern Technologies Ltd. supra. The learned Income Tax Appellate Tribunal has reproduced the observations made by the Delhi High Court while referring the said case of M/s Southern Technologies Limited supra. The assessee herein being a Cooperative Bank also governed by the Reserve Bank of India and thus the directions with regard to the prudential norms issued by the Reserve Bank of India are equally applicable to the Co-operative banks. The Hon'ble Supreme Court in the case of Southern Technologies Limited supra held that, provisions of Section 45Q of Reserve Bank of 17 India Act has an overriding effect vis-a-vis income recognition principle under the Companies Act. Hence, Section 45Q of the RBI Act shall have overriding effect over the income recognition principle followed by cooperative banks. Hence, the Assessing Officer has to follow the Reserve Bank of India directions 1998, as held by the Hon'ble Supreme Court.”

21. *Further relying upon the decision of the Apex Court in the case of UCO Bank, Calcutta and Mercantile Bank Ltd. (supra) it allowed the assessee's appeal.*

22. *It is evident from the above that the issue regarding taxability of interest on NPA's is settled in favour of the assessee as being taxable in the year of receipt.*

23. *The grievance of the Revenue that the Hon'ble Supreme Court's decision in the case of State Bank of Travancore (supra) applies to the present case, we find is misplaced, since as pointed out above by the Ld. counsel of the assessee, it has been overruled by the Apex Court itself in the case of UCO Bank Limited (supra) wherein it was pointed out by the Apex Court that while rendering the judgment in the case of State Bank of Travancore (supra), the circular dated 9.10.1984 had not been brought to the notice of the Court, nor the subsequent decision of the Apex Court in the*

case of *K.P.Varghese Vs. ITO (1981) 131 ITR 597 (SC)*. The relevant extracts of the decision in *UCO Bank Limited* are reproduced hereunder:

"There are, however, two decisions of this Court which have been strongly relied upon by the respondents in the present case. The first decision is the majority judgment in *The State Bank of Travancore v. Commissioner of Income- Tax, Kerala (1986 (158) ITR 102)* decided by a Bench of three Judges of this court by a majority of two to one. This judgment directly deals with interest on "sticky advances" which have been debited to the customer but taken to the interest suspense account by a banking company. The majority judgment has referred to the circular of 6th of October, 1952 and its withdrawal by the second circular of 20th of June, 1978. The majority appears to have proceeded on the basis that by the second circular of 20th of June, 1978 the Central Board had directed that interest in the suspense account on "sticky" advances should be includible in the taxable income of the assessee and all pending cases should be disposed of keeping these instructions in view. The subsequent circular of 9th of October, 1984 by which, from the assessment year 1979-80 the banking companies were given the benefit of the circular of 9th of October, 1984, does not appear to have been pointed out to the Court. What was submitted before the Court was, that since such interest had been allowed to be exempted for more than half a century, the practice had transformed itself into law and this position should not have been deviated from. Negating this contention, the Court said that the question of how far the concept of real income enters into the question of taxability in the facts and circumstances of the case, and how far and to what extent the concept of real income should intermingle with the accrual of income, will have to be judged "in the light of the provisions of the Act, the principles of accountancy recognised and followed, and feasibility". The Court said that the earlier circulars being executive in character cannot alter the provisions of the Act. These were in the nature of concessions which could always be prospectively withdrawn. The Court also observed that the circulars cannot detract from the Act. The decision of the Constitution Bench of this Court in *Navnitlal C. Javeri v. K.K. Sen (Supra)*, or the subsequent decision in *K.P. Varghese v. 19 Income Tax Officer (supra)* also do not appear to have been pointed out to the Court. Since the later circular of 9.10.1984 was not pointed out to the Court, the Court naturally proceeded on the

assumption that the benefit granted under the earlier circular was no longer available to the assessee and those circulars could not be resorted to for the purpose of overcoming the provisions of the Act. Interestingly, the concurring judgment of the second judge has not dealt with this question at all but has decided the matter on the basis of other provisions of law. "

24. *Therefore, the contention of the Revenue that the decision in the case of State Bank of Travancore (supra) applies to the assessee's case is dismissed.*

25. *The argument of the learned D.R. that the decision of the Delhi High Court in the case of Vasisth Chay Vyapar Ltd. (supra) would not apply to the assessee's case since the assessee is a cooperative society while in the case of Vasisth Chay Vyapar Ltd. (supra), the assessee was a NBFC, is also dismissed since the principle enunciated by the Delhi High Court in Vasisth Chay Vyapar Ltd. (supra) has been followed in the case of Shri Mahila Sewa Sahakari Bank Ltd. (supra) by the Hon'ble Gujarat High Court and various other decisions cited by the assessee before us, and the assessee in all those cases being a cooperative bank, the decision rendered therein squarely applies to the case of the assessee.*

26. *The argument of the learned D.R. that the assessee is following the mercantile system of accounting is also dismissed since this aspect has been dealt with by 20 various High Courts referred to above wherein they have categorically held that even following the mercantile system of accounting the interest on NPA account cannot be said to have accrued in the impugned year since the recovery of the same was impossible and even otherwise for the purpose of Income Recognition the RBI Directions, 1998, had to be followed in view of section 45Q of the RBI Act.*

27. *In the light of the above discussion we find no infirmity in the order of the CIT(A), holding the interest on NPA's as taxable in the year of receipt, so as to warrant interference.*

28. *In the result the appeal of the Revenue is dismissed."*

Therefore following the above judicial precedents, we do not find any merit in the grounds taken by revenue.

7. *In view of the above, the appeals filed by revenue are dismissed."*

In view of the above judicial precedents, ground no. 1 of revenue's appeal is dismissed.

Now coming to ground no. 2 regarding provisions against the standard assets, we find that the same is also covered in favour of assessee by the order of the Hon'ble Tribunal in the case of Punjab Gramin Cooperative Bank. For the sake of completeness, the findings of the Hon'ble Tribunal are reproduced below:

“12. We have heard the rival parties and have gone through the material placed on record. We find that the issue of provision for doubtful debts on standard assets is covered in favour of assessee by the order of the Tribunal dated 22.06.2016 for Assessment Year: 2008-09, wherein the appeal of the revenue was dismissed which was filed by Revenue on similar grounds. The relevant findings of the Tribunal as contained in para 8 onwards are reproduced below.

8. “We have heard the rival parties and have gone through the material on record. We find that the assessee had created a provision of Rs. 50,00,000/- which included a sum of Rs. 13,25,000/- as provisions for bad and doubtful debts and the balance amount of Rs. 36,75,000/- was provision against standard assets and the entire amount was claimed as deduction under section 36(1)(viii) of the Act. The Assessing Officer was of the opinion that the provisions made by the assessee against standard assets was a contingent liability and which was not allowable as business expenditure. The Ld. CIT(A), however, allowed relief to the assessee by holding that the claim of the assessee fall into the main provisions of section 36(1)(viii). To resolve the dispute it is important to visit the provisions of section 36(1)(viii) of the Act and which for the sake of convenience are reproduced below.

“36(1)(viii) In respect of any provision for bad and doubtful debts made by (a) a scheduled bank [not being a bank incorporated by or under the laws of a country outside India] or a non-scheduled bank or a co-operative bank outside India] or a primary co-operative agricultural and rural development bank, an amount not exceeding seven and one-half percent of the total income (computed before making any deduction under this clause and Chapter VI-A) and an amount not exceeding ten percent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner.

Provided that a schedule bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years deduction in respect of any provision made by it for any assets classified by the

Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five percent of the amount of such assets shown in the books of account of the bank on the last day of the previous year.

Provided further that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the provisions of the first proviso shall have effect as if for the words “five percent”, the words “ten percent” had been substituted.

Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government.

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head “Profits and gains business or profession.”

From the above provisions it can be seen that deduction u/s 36(1) (viia) of the Act is allowed in respect of provisions for bad and doubtful debts. This section does not differentiate between provision on bad assets and provision on standard assets. This deduction exclusively allows deduction in respect of provision for bad and doubtful debts to the extent mentioned in the various clauses of sub-section (1) of section 36 of the Act. The deduction under section 36(1)(viia) of the Act is allowed only in respect of certain specific categories of assessee mentioned in the clause like banks, financial institutions, etc. who are in business of lending money. It is not allowed even to non-banking financial institutions since they are not included in this clause. It is seen that though section 36(1) (vii) states that deduction for provision is allowable in respect of provision for bad and doubtful debts, the computation of such deduction is made with reference to total income of the specified Banks based upon quantum of average advances. The deduction of the provisions is neither limited to the quantum of bad debts in the books nor is computed with reference to the quantum of standard assets. The deduction in this clause refers to allowable provisions of anticipated default on the loans and advances made in respect of total assets including standard assets and the claim of the assessee does not fall into the proviso to section 36(1) (viia) as the proviso deals with further deduction for provisions on bad and doubtful debts. The claim of the assessee is covered in the main provisions of section 36(1)(viia) of the Act. The Ld. CIT(A) has passed a

very exhaustive and speaking order and we do not find any infirmity in the same.

Therefore following the above Tribunal order, we do not see any infirmity in the order of Ld. CIT(A).

13. In view of the above fact and circumstances the grounds of appeal raised by Revenue in ITA No. 580 & 569 are dismissed.

In view of the above precedents the ground no. 2 is also dismissed.

7. In nutshell, the appeal filed by revenue is dismissed.

Order pronounced in the open court on 03.01.2018

Sd/-
(N. K. CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(T. S. KAPOOR)
ACCOUNTANT MEMBER

Dated: 03.01.2018.

/GP/Sr. Ps.

Copy of the order forwarded to:

- (1) The Assessee:
- (2) The
- (3) The CIT(A),
- (4) The CIT,
- (5) The SR DR, I.T.A.T.,

True copy

By Order