

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR
BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.509(Asr)/2017
Assessment Year:2014-15

Asst. CIT
Circle-3, Jalandhar

Vs. M/s Jalandhar Central Co-op.
Bank Ltd., Jalandhar

PAN:AAAT6187E

(Appellant)

(Respondent)

Appellant by: Sh. S.S. Negi (Ld. DR)
Respondent by: Sh. Ashray Sarna (Ld.CA)

Date of hearing: 22.12.2017
Date of pronouncement: 08.03.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Revenue Department, on feeling aggrieved against the order dated 08.06.2017 passed by the Ld. CIT(A)-2, Jalandhar, in appeal No.2/10360/16-17/CIT(A)/Jalandhar, by raising the following grounds of appeal.

“1. That on the facts and in the circumstances of the case Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.2,14,165/- made by the AO holding that the interest due on ‘Non-Performing Assets’ was taxable as the Co-op Bank was following mercantile system of Accounting except with regard to the interest pertaining to NPAs.

2. That the Ld. CIT(A) has erred in law and on facts of the case in holding that the ratio of the decision of Hon'ble Delhi High Court in case of M/s Vasisth Chay Vyapar Ltd. (ITA No.552, 565 of 2005 of 2005 ITA No.1191 of 2007, ITA No.139, 466, 357 of 2008 & ITA No. 408 of 2003 date of decision 29.11.2010 is applicable in the case.

3. It is prayed that the order of the Ld. Commissioner of Income Tax (Appeals) be set aside and that of the Assessing Officer be restored.”

2. The Ld. CIT(A) while relying upon the order passed by the Hon'ble ITAT, Amritsar Bench dated 20.01.2017 in ITA No.604, 605 & 625(Asr/2015-16 in the case of the assessee itself deleted the addition of Rs.2,14,85,165/- made by the A.O on account of interest on non performing assets (NPA).

3. The Ld. DR on behalf of the Revenue Department relied upon the order passed by the Assessing Officer and submitted that the order passed by the Ld. CIT(A) is liable to be set aside on the grounds as mentioned in Para No.1 of the instant order.

4. On the other hand, the Ld. AR submitted that similar and identical questions arose during the Asst. Year: 2011-12 to 2013-14, which were subjected to adjudication by the ITAT Bench at Amritar and the ITAT Bench at Amritsar thoroughly considered the pros and cons of the issue under consideration and pass the order which has been followed by the Ld. CIT(A) while deleting the addition made by the Assessing Officer.

5. We have gone through with the facts and circumstances of the case as well as order passed by the authorities below and specifically raised the query by the Bench qua following the RBI guidelines and whether any provision of non performing assets (NPA) has been made in computation of total income which was replied by the Ld. AR by placing on record license No. RPCD (CHD) (JLR) PB-11 dated 30th May, 2012 issued by the RBI while granting a license to commerce and carrying on Banking Business. The Ld. AR also placed on record computation of total income, where it is clearly reflects that the provision of N.P. amounts and NP Accounts are also part of the computation of total income and from the audited financial statement, it reflects that the assessee is following the mercantile system of accounting in accordance with RBI guidelines. Even otherwise the Co-ordination Bench of ITAT at Amritsar has already gone through with minute details of the assessee's own case itself and vide ITA No. 652(Asr)/2015 and ITA No.604 & 605(Asr)/2016 passed on 20.01.2017 whereby similar and identical grounds raised by the Revenue dismissed. For the sake of convenience and clarity, we feel it appropriate to reproduce the crux part of the aforesaid judgments.

“6. It remains an undisputed fact the assessee co-operative bank has been following the mercantile system of accounting, except with regard to interest pertaining to NPAs. As notice by the ld. CIT(A), this proposition stands accepted by the department in the earlier years. The assessee has been following the RBI guidelines in this matter. Its method of accounting is entirely in accordance with the RBI guidelines. The RBI guidelines need to be mandatorily followed by the assessee. Moreover, this method of accounting,

adopted by the assessee, is in accordance with the Accounting Standards issued by the Institute of Chartered Accountants of India. Section 45Q of the RBI Act provides, in the non obstante Clause with which it begins, that the provisions of the Chapter under which section 45Q falls, shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being inforce.

7. *In “M/s Vasisth Chay Vyapar Ltd.” (supra), it has been held that when an NBFC classifies an asset as a Non-performing Asset in accordance with the directions issued the Reserve Bank of India, it is legitimate to infer that the interest income thereon is not accrued, even though the NBFC is following the mercantile system of accounting. Inter alia, “M/s Southern Technologies Ltd.” (supra) has been distinguished “in M/s Vasisth Chay Vyapar Ltd.” (supra).*

8. *Apropos the applicability of section 43D of the I.T. Act, it is on record that during the proceedings before the Id. CIT(A), the assessee, by way of submission dated 17.09.2015, the assessee had stated that the assessee had been confirmed by the Headquarter of the Punjab State Co-operative Bank, to be a scheduled bank. This position has not been disputed.*

9. *In view of the above, we find that the grievance of the department is without any force. The order of the ld. CIT(A) is a well versed reasoned detailed order, requiring no interference whatsoever at our hands. The same is, accordingly, confirmed.*

10. *As noted at the beginning of this order, all the three appeals involve the same common issue. That being so, our above observations shall apply equally, mutatis mutandis, to the other two appeals also.*

11. *Accordingly, all the orders of the ld. CIT(A) in these three appeals are upheld and the grounds raised by the department are rejected.*

12. *In the result, all three appeals are dismissed.”*

We are of the considered opinion that the facts and issues raised in the instant appeal are directly same as of the aforesaid judgment and *mutatis mutandis* applies to the instant case as well, hence, we do not find any substance in the appeal of the

Revenue Department to interfere with the order passed by the Ld. CIT(A), as the same does not suffer from any illegality, impropriety or infirmity.

6. In the result, the appeal filed by the Revenue Department stands dismissed.

Order pronounced in the open Court on 08.03.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

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

Dated:08.03.2018

/PK/ Ps.

Copy of the order forwarded to:

- (1) M/s Jalandhar Central Co-op. Bank Ltd., Jalandhar
- (2) The Asst. CIT, Circle-3, Jalandhar
- (3) The CIT(A)-2, Jalandhar
- (4) The CIT concerned.
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order