

IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
Before Shri Kul Bharat, Hon'ble Judicial Member and
Shri Manish Borad, Hon'ble Accountant Member

ITA No. 36/Ind/2017
A.Y. 2013-14

Vikramaditya Nagrik
Sahkari Bank Maryadit
Ujjain
Vs

::: Appellant

ACIT
Ujjain

::: Respondent

Appellant by	Shri S.S. Deshpande
Respondent by	Shri R.P. Mourya
Date of hearing	6.3.2018
Date of pronouncement	20.3.2018

O R D E R

PER SHRI MANISH BORAD, AM

This appeal of the assessee relating to the assessment year 2013-14 is directed against the order of the Commissioner of Income Tax (Appeals), Ujjain, dated 11.11.2016 which is arising out of the order u/s 143(3) of

the Income Tax Act (in short referred as 'Act') Act dated 9.12.2015 framed by the ITO, Circle 1(1), Ujjain.

2. Briefly stated, the facts of the case, as culled out from record, are that the assessee is a cooperative society engaged in the banking business. The return of income was filed on 30.9.2013 declaring income at Rs.1,72,18,260/-. Case selected for scrutiny through CASS. Notices u/s 142(1)(and 143(2) of the Act were served on the assessee. The Assessing Officer observed that the assessee has claimed expenditure under the head contingency provision for standard assets at Rs. 2,00,000/- u/s 36(1)(viiia) of the Act. The Assessing Officer was of the view that under the provisions of section 36(1)(viiia) of the Act the assessee can claim provision for bad and doubtful debts and not for the contingency for standard assets and accordingly disallowed the provision for standard assets at Rs. 2 lacs assessing the income at Rs.1,74,18,260/-. Aggrieved, the assessee

preferred appeal before the Commissioner of Income Tax (Appeals) but the Commissioner of Income Tax (Appeals) also held that contingency provision has been made for performing assets and not for bad and doubtful debts thereby dismissing the appeal of the assessee.

3. Now the assessee is in appeal before the Tribunal.

4. The learned counsel for the assessee submitted that in the profit and loss account the assessee has not claimed any other expenditure under the head “provision for bad and doubtful debts” and only an amount of Rs.2 lacs has been claimed as ‘contingency provision for standard assets’ which actually is provision for bad and doubtful debts only.

He further submitted that as per the provisions of section 36(i)(vii) of the Act the assessee is entitled to provision for bad and doubtful debts to the extent of 7.5% of the total income computed before making any deduction under Chapter VIA and under this clause and, therefore, the

claim of the assessee should have been allowed by both the authorities below.

5. On the other hand, the learned DR supported the orders of the authorities below and submitted that the alleged provision is not for bad and doubtful debts but for contingency of standard assets which is not covered u/s 36(1)(viia) of the Act.

6. We have heard the rival contentions and perused the material placed on record. The sole grievance of the assessee revolves around the disallowance of Rs.2 lacs confirmed by both the lower authorities relating to “provision for contingency of standard assets” claimed by the assessee u/s 36(1)(viia) of the Act. Before proceeding further we would like to reproduce the provision of section 36(1)(viia) of the Act as under :-

“Other deductions.

36. (1) *The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—*

xxxxx

xxxxx

xxxxx

(viii) ⁹⁸*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 other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding ⁹⁹[seven and one-half per cent] of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner :*

Provided *that a scheduled 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 per cent 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 per cent", the words "ten per cent" 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 of business or profession."*

Explanation.—For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005"

7. On perusal of the above provision and in the given facts of the case, wherein the assessee, which is a cooperative bank carrying on banking business, we find that the assessee is eligible to claim "provision for bad and doubtful debts" to the extent of 7.5% of the total income before making any deduction under this clause and under Chapter VIA. Further in the profit and loss account except for the alleged "provision" for Rs. 2 lacs, no other provision for bad and doubtful debts has been claimed. We find force in the contention of the learned counsel for the assessee that the phrase "contingency provision for standard assets" is basically a provision for bad and doubtful debts only which is in general a regular feature of the banking business. It is also pertinent to mention that even though the assessee was eligible to claim much higher amount as

an expenditure of “provision for bad and doubtful debts”, it only claimed Rs. 2 lacs. We, therefore, in the facts and circumstances of the case, are of the opinion that in the instant appeal the contingency provision for standard assets is basically in the nature of bad and doubtful debts only and the assessee has rightly claimed the expenditure u/s 36(1)(viia) of the Act. We, therefore, allow the sole ground raised by the assessee.

7. In the result, the appeal of the assessee stands allowed.

Pronounced in open Court on 20 March, 2018.

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

20 March, 2018

Dn/-

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By order

Private Secretary

