

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.105/Ind/2017
Assessment Year: 2012-13**

M/s Jila Sahkari Krishi & Gramin Vikas Bank Maryadit, Hoshangabad	Vs.	Asstt. Commissioner of Income Tax, Circle Range Itarsi (Appellant)
PAN No.AAAAJ-1482A		

Appellant by	Shri Anil Khabya
Respondent by	Shri K.G. Goyal
Date of Hearing	24.4.2018
Date of Pronouncement	27.4.2018

ORDER

PER MANISH BORAD, AM.

This appeal filed by the assessee pertaining to Assessment Year 2012-13 is directed against the order of Id. Commissioner of - Income-tax (Appeals), Bhopal, dated 25.11.2016 which is arising out of the order u/s 271(1)(c) of the Act(1)(c) of the Income Tax Act dated 31.8.2015 framed by the ACIT, Range Itarsi.

2. The sole grievance of the assessee is against the order of the learned Commissioner of Income Tax (Appeals) confirming the penalty of Rs. 12 lacs u/s 271(1)(c) of the Act(1)(c) of the Act imposed by the Assessing Officer towards disallowance of provision for bad and doubtful debts at Rs. 41,30,455/- and disallowance of provision for standard assets at Rs.1,85,865/-.

3. Briefly stated, the facts are that the assessee is a district cooperative agricultural and rural development bank and it declared loss of Rs. 7,08,37,442/- in the return of income filed on 26.9.2012. The assessment u/s 143(3) of the Act was completed on 9.2.2015 assessing the loss at Rs. 3,46,08,356/- after making various disallowances totaling to Rs.3,62,29,086/- which, inter alia, included disallowance of provision for bad and doubtful debts and provision for standard assets at Rs.41,30,455/- and Rs.1,85,865/-. Subsequently the Assessing Officer initiated penalty proceedings u/s 271(1)(c) of the Act. None attended on behalf of the assessee during penalty proceedings u/s 271(1)(c) of the Act(1)(c) of the Act. The Assessing Officer accordingly computed the penalty at Rs. 12 lacs on the disallowance as referred to above at Rs. 43,16,320/-.

4. Aggrieved, the assessee preferred appeal before the learned Commissioner of Income Tax (Appeals) but failed to succeed as the learned Commissioner of Income Tax (Appeals) was of the view that as the assessee has not appealed against the order of the Assessing Officer passed u/s 143(3) of the Act it connotes that the assessee has accepted that it is not covered by the provisions of section 36(1)(viii) of the Act which allowed certain categories of the assessee engaged in banking business for making provisions for bad and doubtful debts and standard assets.

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

6. At the outset of the hearing, the learned counsel for the assessee submitted that the alleged disallowances for bad and doubtful debts and provision for standard assets were duly reflected in the return of income and it is not the case of furnishing inaccurate particulars of income or concealment of particulars of income. He submitted that the assessee was not able to appear before the Assessing Officer for unavoidable reasons and, therefore, requested that the issue may be remitted back to the file of the

Assessing Officer for de novo adjudication. The learned DR raised no objection to this plea of the assessee.

7. We have heard the rival contentions and perused the record placed before us. The grievance of the assessee is against finding of the learned Commissioner of Income Tax (Appeals) confirming the action of the Assessing Officer levying penalty of Rs. 12 lacs u/s 271(1)(c) of the Act for disallowance of provision of bad and doubtful debts and disallowance of provision for standard assets at Rs. 41,30,455/- and Rs. 1,85,865/-, respectively. Perusal of record shows that during penalty proceedings the assessee made no submissions and failed to appear before the Assessing Officer to plead its case. It is also discernible from record that the alleged disallowances are in the nature of claims made by the assessee under the provisions of section 36(1)(viiia) of the Act. The case is purely of the nature that the claim has been made by the assessee which was denied by the Assessing Officer. It is also evident from records that the assessee has not filed appeal before the learned Commissioner of Income Tax (Appeals) against the disallowances made by the Assessing Officer u/s 143(3) of the Act as there was

huge loss and even the assessed income was a loss. However, looking to the fact that none attended on behalf of the assessee during the penalty proceedings u/s 271(1)(c) of the Act(1)(c) of the Act, we, in the interest of justice and to give a fair chance to the assessee, set aside the issue to the file of the Assessing Officer for de novo adjudication and also direct the assessee to be compliant and not to take unnecessary adjournment and also direct it to file necessary evidence and submissions in support of its claim.

8. In the result, the appeal is allowed for statistical purposes.

The order pronounced in the open Court on 27.4.2018.

sd/-

sd/-

(KUL BHARAT)
JUDICIAL MEMBER

(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /**Dated : 27 April, 2018**

Copy to: The Appellant/Respondent/CIT concerned/CIT(A) concerned/
DR, ITAT, Indore/Guard file.

By order

Private Secretary/DDO, Indore

1. Date of dictation : 8.2.2018

- 2.** Date on which the typed draft is placed before the Dictating Member : 9.2.2018
- 3.** Date on which approved draft comes to the Sr.P.S./P.S.:
- 4.** Date on which the fair order is placed before the dictating Member for pronouncement:
- 5.** Date on which the fair order comes back to the Sr.P.S./P.S.:
- 6.** Date on which the file goes to the Bench Clerk:
- 7.** Date on which the file goes to the Head Clerk:
- 8.** The date on which the file goes to the Assisstant Registrar for signature of the order.
- 9.** Date of Despatch of the Order: