

**आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक**

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK  
BEFORE SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM**

**आयकर अपील सं./ITA Nos.394 to 396/CTK/2015**

**(निर्धारण वर्ष / Assessment Years :2007-08, 2010-11 & 2012-13)**

M/s Cuttack Central Co-operative Bank Ltd., Nimchouri, Chandni Chowk, Cuttack	Vs.	ACIT, Circle-2(1), Cuttack
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AAABC 0373 Q</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

**AND**

**आयकर अपील सं./ITA Nos.389 to 391/CTK/2015**

**(निर्धारण वर्ष / Assessment Years :2007-08, 2010-11 & 2012-13)**

ACIT, Circle-2(1), Cuttack	Vs.	M/s Cuttack Central Co-operative Bank Ltd., Nimchouri, Chandni Chowk, Cuttack
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AAABC 0373 Q</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri Nihar Ranjan Biswal, AR

राजस्व की ओर से /Revenue by : Shri Kunal Singh, DR

सुनवाई की तारीख / Date of Hearing : **05/07/2017**

घोषणा की तारीख/Date of Pronouncement **12/07/2017**

**आदेश / O R D E R**

**Per Shri Pavan Kumar Gadale, JM:**

These are the cross appeals filed by the assessee and revenue against the common order dated 10.06.2015, passed by the CIT(A), Cuttack, u/s.147 of the Income Tax Act, for the assessment years 2007-08, 2010-2011 & 2011-2012.

2. Since the issues involved in all the appeals are identical, therefore, all the appeals have been heard and are being disposed off by this consolidated order.

3. For the sake of convenience, we shall take into consideration the grounds and facts mentioned in ITA No. 394/CTK/2015 (AY 2007-2008) for deciding all the appeals.

4. The facts in brief are that the assessee is a cooperative bank engaged in banking business. The AO on perusal of the profit and loss account, found that the assessee has made a provision for bad and doubtful debts of Rs.2,05,68,454/- and other provisions to the extent of Rs.1,26,79,076/- and the AO has reason to believe that assessee-cooperative bank has claimed excess provisions, therefore, having reason to believe the Id. AO issued notice u/s.148 of the Act, dated 25.3.2013. In compliance to the same, Id. AR of the assessee appeared and the case was discussed. The assessee filed written submissions and explained the reasons for making provisions and bad and doubtful debts and the assessee has made further provision of overdue interest for the assessment year 2009-2010 for Rs.1,14,55,328/-. The AO made addition based on the reasons explained at page 2 of the assessment order. The assessee cooperative bank was allowed deduction u/s.36(i)(viiia) of the Act in respect of bad and doubtful debts on NPA, where the assessee has claimed deduction of Rs.2,05,68,454/-. Since the assessee has claimed excess deduction, the AO made disallowance of Rs.1,75,88,979/-. On the third disputed issue the assessee cooperative bank has paid commission to its agents without deduction of TDS, therefore applying the provisions of Section 40(a)(ia) of the Act and Id. AO made disallowance of Rs.24,99,770/-. The Id.AO also dealt with the bye-laws and the circulars

and the deduction allowable u/s.80P(2)(a)(i) and finally concluded that the only primary agricultural credit societies and primary cooperative agricultural and rural development bank are qualified to claim the deduction u/s. u/s.80P(2)(a)(i) of the Act and, therefore, assessed total income by making the addition in respect of overdue interest Rs.1,14,55,328/-, bad and doubtful debts on NPA at Rs.1,75,88,979/- and provisions against unconciled accounts at Rs.12,23,748/- and disallowance u/s.40(a)(ia) of the Act at Rs.24,99,770/- and determined total income aggregating to Rs.3,67,46,870/- and passed the order u/s.147 of the Act, dated 6.3.2014.

5. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A). In the appellate proceedings the Id. AR of the assessee reiterated the submissions made before the AO and also supported various statements. Ld. CIT(A) considered the findings of the AO and submissions of the assessee in respect of provisions for overdue interest, which was referred at page 2 of the CIT(A)'s order, wherein it was submitted that to comply the provisions of bank regulations and income tax calculation, these provisions of overdue interest was charged. In the financial year 2006-07 and the net overdue interest charged being Rs.1,14,55,328/- and, Id. CIT(A) observed that since unreconciled income was not available, hence, the provisions are not allowed while computing the income of the assessee and, confirmed the disallowance of the AO of Rs.1,14,55,328/-.

5.1 On the second disputed issue of bad and doubtful debts on NPA, Id. CIT(A) found that the assessee has claimed a deduction u/s.36(i)(vii) to the extent of Rs.2,05,68,454/-, whereas the AO has allowed the claim of only Rs.29,79,475/- and the balance amount has been added to the income of the assessee. Ld. CIT(A) considered the provisions made against the bad and doubtful debts found that the AO has wrongly calculated the claim and deduction to be allowed at 7.5% of Rs.2,45,47,493/-, which worked out to Rs.18,41,061/- and directed the AO to allow the deduction in accordance with law. Ld.CIT(A) has confirmed the addition of provision against unreconciled amounts. In respect of disallowance u/s.40(a)(ia) for non-deduction of TDS on commission payments made to agents, the explanations of the assessee that commission pertains to two categories whereas the commission is paid on clearing of cheques to the Bank and secondly the commission is paid to the Daily Deposit Agents. The Ld. CIT(A) considering the data and information on the clearing of the cheques and daily deposit agent, directed the AO to restrict the disallowance at 50% i.e. Rs.13,49,593/- and partly allowed the appeal of the assessee.

6. Aggrieved by the CIT(A)'s order, the assessee preferred an appeal before the Tribunal.

7. At the time of hearing, Id. AR has not pressed the ground No.3 in respect of unreconciled accounts and made endorsement. Accordingly, ground No.3 is dismissed as not pressed. With regard to other grounds, Id. AR of the assessee argued the grounds and reiterated the

submissions made before the AO and appellate proceedings. Ld. AR argued on the additions confirmed by the CIT(A) in respect of overdue interest where this overdue interest was allowed to the assessee by the AO for the assessment year 2008-09, 2013-2014 & 2014-2015 and on the second disputed issue of claim of bad and doubtful debts in respect of NPA, Ld. AR submitted that the additional deduction at 10% of the rural advance was not considered by the Ld. AO, whereas on the similar issue for the assessment year 2008-09 the matter was restored by the Tribunal to the AO whereas the AO has allowed the claim in subsequent assessment years. In respect of disallowance of commission by the AO Ld. AR submitted that this pertains to the commission paid for clearing of out station cheques to banks and commission paid to the Daily Deposit Agents and in the appellate proceedings, the Ld. CIT(A) has granted partial relief without considering the fact that the assessee bank has deducted TDS in respect of payments wherever the TDS provisions are applied. The Ld. AR further submitted that the assessee cooperative bank has received dividend income in the financial year 2006-07 Rs.40,06,366/-, since the exempt in u/s.10(34) of the Act was not claimed by the assessee in the Return of income the claim was not allowed and even before the appellate authority the claim was dismissed.

8. *Contra*, Ld. DR supported the orders of the Ld. CIT(A) on the disputed issue and opposed to the grounds.

9. We heard the rival submissions and perused the material available on record. Ld. AR's arguments and submissions have been considered on

the issue of overdue interest. It was explained that the assessee cooperative bank has made provisions for overdue interest and was kept under the separate head being provisions for overdue interest, whereas at the end of the each financial year, provision for overdue interest is calculated and if any additional provision is required it is debited to the profit and loss account and in the current financial year the provision was for Rs.1,44,55,328/- and is in the nature of unreconciled interest income. Ld. AR drew our attention and to the documents pertaining to the assessment year 2008-09 in the scrutiny assessment u/s.143(3) dated 31.3.2010 The overdue interest which was debited to the profit and loss account was allowed by the AO. Similarly for the assessment year 2013-2014 the assessment was completed u/s.143(3) dated 22.2.2016 where the assessee has claimed provision interest. We find such overdue interest provision is allowed and support our view with the decision of Kolkata ITAT in the case of Nadia District Cent Cooperative Bank Ltd. ITA No.1851/Kol/2012, dated 01.08.2014 for the assessment year 2007-08, wherein the Tribunal on the identical issue dismissed the appeal of the revenue observing as under :-

*"2. The only issue in this appeal of revenue is against the order of CIT(A) allowing the claim of interest on account of provisions for overdue interest amounting to Rs.1,39,12,476/-, provision for NPA Rs.25,46,168/-, provision on standard assets Rs.2,96,981/- and provision for amortization of government securities Rs.32,65,288/-, by admitting additional evidences in contravention of Rule 46A of I. T. Rules, 1962 (hereinafter referred to as the Rules). For this, assessee has raised following three grounds:*

*"1. That on the facts and in the circumstances of the case the Ld. CIT(A)-XXVI, Kolkata, erred in admitting additional evidence at the*

time of appellate proceedings in contravention of Rule 46A in deleting additions on account of Provision for overdue interest amounting to Rs.1,39,12,476/-, Provision for NPA amounting to Rs.25,46,168/-, Provision on standard assets of Rs.2,96,981/- and Provision for Amortization of Government Securities amounting Rs.32,65,288/-.

2. The Ld. CIT(A)-XXXVI, Kolkata erred in fact as well as in law by not ascertaining the amount of interest overdue before giving relief to the assessee.

3. The Ld. CIT(A)-XXXVI, Kolkata erred in law as well as in fact by not ascertaining the extent of utilization of the provisions by the assessee under various heads before summarily deleting the additions of the AO."

Nadia Dist. Cent Coop. Bank Ltd., AY 2007-08

3. We have heard rival submissions and gone through facts and circumstances of the case.

The AO during the course of assessment proceedings made disallowance of the following provisions :

"A. Provisions for overdue interest	Rs. 1,39,12,476/-
B. Provision for Non-Performing Assets	Rs. 25,46,148/-
C. Provision for Standard Assets	Rs. 2,96,981/-
D. Provision for G-Sec. (Govt. Securities)	Rs. 32,65,288/-"

Assessee is a Central Cooperative Bank of Nadia District, West Bengal operating under Banking Regulation Act, 1949 and rules & regulations framed by RBI are binding on the assessee. The assessee following the guidelines issued by RBI and Audit Manual of State Government Cooperative Banks & Central Cooperative Banks, made various provisions for doubtful debts, overdue interest, NPAs, Standard Assets and Government Securities. The CIT(A) allowed the claim of the assessee on overdue interest provision by observing as under:

"5. I have heard the Ld. A/R and carefully perused the R.B.I's Master Circular, decisions cited supra and other evidence on record. I find that the A.O. resorted to the impugned disallowance on overdue interest provision simply on the ground that there is no provision for deduction of overdue interest in the I. T. Act and the appellant society has made no provision for bad & doubtful debts during the F.Ys 2005-06 and 2006-07. The appellant- society follows mercantile system of accounting However, the appellant considers overdue interest on NPA 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 appellant which is in accordance

with the audit manual. The Hon'ble Supreme Court in the case of UCO Bank vs. CIT (supra) after considering various decisions allowed the exclusion of credit made by the assessee by way of interest to a suspense account since the recovery of the said amount was doubtful and no recovery of the said amount or any part of it which was by way of interest on loans advanced by it, has been effected in the three previous years. The observations of the Hon'ble Supreme Court are, to quote, as under:-

"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 vs. CIT (1986] 158 ITR 102 at page 120. 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 Nadia Dist. Cent Coop. Bank Ltd., AY 2007-08 be transferred to interest account; the remaining amount should be closed by transfer to the loan account. This treatment accords with the 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 [1986] 158 ITR 102, 120)."

In view of the above decision of Hon'ble Supreme Court, it is manifest that there was no defiance of the accounting principle and R.B.I's guidelines in making the provision for overdue interest in the assessment year under consideration, inasmuch as no item should be treated as income unless it has been received.

5.1. Further, on identical facts, the Hon'ble Calcutta High Court in the case of CIT vs KICM Investments Ltd. (supra) upheld the order of the Hon'ble Tribunal allowing writing off of bad debt by passing necessary entries in the accounts. The ground raised by the assessee before the Hon'ble Tribunal was as under:-

4. For that the Commissioner of Income-tax (Appeals) erred in confirming the disallowance of Rs.4,06,002/- being the bad debt written off by the appellant in the books of account. The Commissioner of Income-tax (Appeals) failed to appreciate the fact that the said amount was non-recoverable and under the guideline issued by the Reserve Bank of India which were binding on the appellant the said sum was written off and was allowable as a bad debt."

The department filed SLP before the Hon'ble Supreme Court against the said judgment of Hon'ble Calcutta High Court which was dismissed vide order dated 12/1/2009 and reported in 310 ITR (Statute) 4. Therefore, considering the facts and circumstances of the appellant's case and respectfully following the aforesaid decisions, the A.O. is directed to delete the disallowance of Rs. 1,39,12,476/- made in respect of provisions for overdue interest. Grounds No. 1 to 3 are allowed."

CIT(A) also allowed the provisions for NPA by observing as under:

"On careful perusal of the definitions elaborated under paragraph 3.2 of the R.B.I's Master Circular, it is evident that sub-standard assets, doubtful assets and loss assets come under the nomenclature of non-performing assets (NPA). Provision in the sum of Rs. 25,46,168/- has been made in the accounts by the appellant for such classified NPA. As per income recognition policy described in para 4.1.1 of the said Master Circular, the policy of income recognition has to be objective and based on the record of recovery. Income from non-performing assets (NPA) is not recognized on accrual basis but is booked as income only when it is actually received. Therefore, the banks should not take to income account interest on non-performing assets on accrual basis. In view of the above clear position clarified by R.B.I., I am of the considered opinion that the appellant has rightly made the provision for NPA of Rs.25,46,168/- as per R.B.I's guidelines and that being so, the A.O. misdirected himself in disallowing the same, which is directed to be deleted. Grounds No.4 & 5 are allowed."

Further, the provisions of Government Securities was also allowed vide para 7.1 as under:

"7.1. I have heard the Ld. A/R and perused the R.B.I's circular and order of Hon'ble Tribunal referred to above. In the circular under the heading "Non-scheduled SCBs and all DCCBs, the R.B.I. has clarified as under:-

"Shifting of securities from 'current' category to 'permanent' category by non- scheduled SCBs/DCCBs may be done at book value, subject to the following conditions:

*i) In case the book value is higher than the face value, the difference between the book value and the fact value i.e. the premium, may be amortized Nadia Dist. Cent Coop. Bank Ltd., AY 2007-08 in equal installments over the period remaining till maturity. If the security was obtained at a discount to face value, the difference should be booked as profit only at the time of maturity of the security."*

*There is no dispute to the fact that the appellant is mandatorily required to invest a part of its funds in Govt. securities for maintaining SLR ratio with the R.B.I. and as per R.B.I.'s instructions/guidelines, which are obligatory on the appellant, such investment is to be amortized in the year of purchase without jeopardizing the profit of the year and the proportionate amount of amortized premium is charged to P/L Account in subsequent years. Although the appellant has wrongly included this Govt. security in the provisions made for the year without showing it separately, but that does not change the actual nature of expenditure incurred by the appellant by way of premium on Govt. securities. The appellant has cited a decision of Hon'ble I.T.A.T., Mumbai in the case of ACIT vs. The Bank of Rajasthan Ltd. (supra), wherein the premium amortized over the period remaining till maturity was held as allowable and allowed the claim of the assessee. In view of the above, I find no reason to endorse the action of the A.O. in disallowing the expenditure of Rs. 32,65,288/- by way of Govt. securities, which is directed to be deleted."*

*Aggrieved, revenue came in appeal before us.*

*4. We find that this issue is squarely covered by the decision of Hon'ble Calcutta High Court in the case of CIT Vs. KICM Investment Ltd. in ITA No. 391 of 2007, which was duly affirmed by Hon'ble Supreme Court as reported in 310 ITR 4 (St.). Once the issue is settled by Hon'ble Supreme Court, we find no infirmity in the order of CIT(A). Moreover, it is seen from the grounds raised by revenue that only grouse of the revenue was that there is violation of the provision of Rule 46 of the Rules. We find nothing and once specific query from the bench Ld. Sr. DR could not state what is the violation. In such circumstances, and factually the issue is covered in favour of the assessee by jurisdictional High Court in the case of KICM Investment Ltd., supra, we confirm the order of CIT(A) and this appeal of revenue is dismissed.*

We, respectfully follow the decision of the Tribunal and direct the Assessing Officer to delete the addition of provisions for overdue interest.

Accordingly, this ground of assessee's appeal is allowed.

10. On the second ground of provision for bad and doubtful debts on NPA, the AO made the disallowance of Rs.1,75,88,797/-, it was submitted by Id. AR that the Assessee bank is entitled for additional 10% deduction along with 7.5% calculated by the AO under provisions of Section 36(1)(viiia) of the Act and on the advances of Rural branches additional 10% has to be allowed, whereas Id. CIT(A) has restricted the claim. The Id. AR submitted that additional deduction of 10% on Rural advances was not considered by the Id. AO, whereas in the assessee's own case for the assessment year 2008-09, the matter was restored to the file of AO. Further, the Id. AR submitted that for the assessment year 2013-2014 & 2014-2015 the deduction u/s.36(1)(viiia) was allowed to the assessee. We considering the apparent facts and material on record and the rural advances of the assessee bank, are of the opinion that this disputed matter has to be re-examined and verified by the AO and shall grant the deduction u/s.36(1)(viiia) of the Act in accordance with law and ground of appeal of the assessee is allowed for statistical purposes.

11. On the third disputed issue of disallowance of commission paid to agents, Id. AR submitted that commission pertains to outstation cheque clearing charges paid to the Banks and also commission paid to daily deposit agents. Id. AR submitted that 50% of the commission paid to daily deposit agents is below Rs.5000/- and, therefore, no TDS was deducted, whereas the Id. CIT(A) has restricted the commission disallowance. The Id. AR submitted that commission payments are on two different modes, one is payment to Banks and other to Daily Deposit

Agents. We considering the apparent facts, material on record and find ambiguity in payments of commission by the assessee and therefore we remit the disputed issue to the file of AO, who shall verify and examine the commission payments made to the banks for outstation clearing charges and commission paid to daily deposit agents and applicability of TDS provisions and pass the orders and the assessee should be provided adequate opportunity of hearing to substantiate its claim and accordingly the ground of appeal of the assessee is allowed for statistical purposes.

12. On the last disputed issue that the assessee cooperative bank received dividend income and since exemption was not claimed u/s.10(34) of the Act, the AO and CIT(A) has denied the claim. We considering the apparent facts that the dividend income on shares is exempted u/s.10(34) and the exempted income has to be excluded from the total income. Accordingly, we remit the entire disputed issue to the file of AO to examine and the assessee shall file evidences in support of the dividend income and be provided adequate opportunity to substantiate its claim and this ground of appeal of the assessee is allowed for statistical purposes.

13. In the result, appeal of the assessee ITA No.394/CTK/2015 is partly allowed for statistical purposes.

14. Similarly, assessee has filed ITA No.395/CTK/2015 for AY : 2010-2011. Ground No.1 raised in this appeal by the assessee is provision for overdue interest which is similar and identical to the earlier assessment year i.e. A.Y.2007-08. We have already decided this issue in para no.9

above and allowed the ground of the assessee. Accordingly, we allow this ground of the appeal of the assessee.

15. Second ground on Bad and doubtful debts on NPA. We have already decided this issue while considering the appeal of the assessee for A.Y.2007-08 and restored this issue to the file of AO. Accordingly, this ground of appeal is also restored to the file of AO and is allowed for statistical purposes.

16. Third ground being provision for standard Assets, the AO made addition of provisions for standard assets. We find some clarifications are required on reconciliation of accounts and the assessment order is silent on the Reasons for disallowance. Accordingly, we, in the interest of justice, remit the entire disputed issue subject to the limit prescribed u/s.36(1)(viii) of the Act to the file of AO to verify and examine and pass the order after affording adequate opportunity of being heard to the assessee and this ground of the assessee is allowed for statistical purposes.

17. The next ground is disallowance made towards provision against recovery. We find the addition made by the Id. AO is without assigning proper reasons. Accordingly, we, considering the apparent facts and material on record, are of the opinion that the matter has to be remitted to the file of AO for examination and verification of the claim subject to limit prescribed u/s.36(1)(viii) of the Act and assessee shall be provided adequate opportunity of hearing before passing the order.

18. The next ground is with respect to disallowance of commission payments. We have already decided this issue while considering the appeal of the assessee for A.Y.2007-08 (ITA No.394/CTK/2015) and restored the issue to the file of AO. Accordingly, this disputed issue of assessee is also restored to the file of AO and allowed for statistical purposes.

19. With regard to the last ground of disallowance of dividend income, we have already decided this issue while considering the appeal of the assessee for A.Y.2007-08 (ITA No.394/CTK/2015) and restored the issue to the file of AO. Accordingly, this disputed issue of assessee is also restored to the file of AO and allowed for statistical purposes.

20. In the result, ITA No.395/CTK/2015 is allowed partly for statistical purposes.

21. Now, we shall take up the appeal filed by the assessee in ITA No.396/CTK/2015 for assessment year 2011-2012.

22. Ground No.1 raised in this appeal is similar and identical to the earlier assessment year i.e. A.Y.2007-08. We have already decided this issue while considering the appeal of the assessee for A.Y.2007-08 and we restored this issue to the file of AO. Accordingly, the ground of assessee is allowed for statistical purposes.

23. On the second disputed issue of exemption of Dividend income, we have decided this issue while considering the appeal of the assessee for A.Y.2007-08 and restored this issue to the file of AO. Accordingly, this ground of assessee is allowed for statistical purposes.

24. Thus, appeal of the assessee i.e. ITA No.396/CTK/2015 is allowed for statistical purposes.

25. Now, we shall take the appeals of revenue i.e. ITA Nos.389 to 391/CTK/2015. For the sake of convenience, we shall take into consideration the facts and grounds mentioned in ITA No.389/CTK/2015 for the assessment year 2007-08.

26. Ground No.1&2 raised in the appeal of the revenue are that the CIT(A) has erred in restricting disallowance of commission paid to the agents and violation of provisions of Rules 46A.

27. We have considered the facts and material on the disputed issues raised by the revenue. We while considering the assessee's appeal for assessment year 2007-08, we have remitted the entire disputed issue to the file of AO. Since the assessee's grounds of appeal is remitted to the file of AO and also the Revenue is deprived of an opportunity as claimed in the grounds. We in the interest of justice, remit the disputed issues raised by the revenue to the file of AO for verification and examination. Accordingly, appeal of the revenue i.e. ITA No.389/CTK/2015 is allowed for statistical purposes.

28. Revenue has filed an appeal in ITA No.390/CTK/2015 for assessment year 2010-2011. Similar grounds have been raised in ITA No.389/CTK/2015 (AY 2007-08) wherein we, have remitted the issues raised by the revenue to the file of AO for verification and examination afresh. Hence, in the present appeal, we remit the disputed issues to the

file of AO for examination and verification. Accordingly, appeal of the revenue i.e. ITA No.390/CTK/2015 is allowed for statistical purposes.

29. Now, we shall take up the appeal filed by the revenue in ITA No.391/CTK/2015 (AY : 2011-2012). The ground Nos.1&2 raised in the appeal of the revenue are that the CIT(A) has erred in restricting disallowance of commission paid to the Agents and also violation of provisions of Rules 46A.

30. We have considered the facts on both the issues raised by the revenue in its appeal while considering the appeal for assessment year 2007-08, wherein we have remitted the disputed issue to the file of AO. Accordingly, in the present appeal, we remit the issues raised by the revenue to the file of AO for verification and examination. Hence, the appeal of the revenue i.e. ITA No.391/CTK/2015 is allowed for statistical purposes.

31. In the result, appeals filed by the assessee in ITA Nos.394, 395 & 396/CTK/2015 are partly allowed for statistical purposes and ITA Nos.389, 390 & 391 filed by the revenue are allowed for statistical purposes.

Order pronounced in the open court on this 12/07/2017.

**Sd/-**  
**(N. S. SAINI)**

लेखा सदस्य / ACCOUNTANT MEMBER

**Sd/-**  
**(PAVAN KUMAR GADALE)**

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 12/07/2017

प्र.कु.मि/PKM, Senior Private Secretary

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY

ORDER,

**(Senior Private Secretary)**

आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack