

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT

**Before: Shri Rajpal Yadav, Judicial Member  
and Shri Amarjit Singh, Accountant Member**

**[Conducted through E-Court at Ahmedabad]**

**ITA No. 248/Rjt/2016  
Assessment Year 2012-13**

DCIT, Circle-2, Jamnagar (Appellant)	Vs	The Jamnagar District Co- op. Bank Ltd. Sahkar Bhavan, Ranjit Road, Jamnagar PAN: AAAJT0272B (Respondent)
---	----	--

**Revenue by: Shri C.P. Bhatia, D.R.  
Assessee by: Shri Sarvesh Gohil, A.R.**

Date of hearing : 21-06-2018  
Date of pronouncement : 27-08-2018

**आदेश/ORDER**

**PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-**

This Revenue appeal for A.Y. 2012-13, arises from order of the CIT(A), Jamnagar dated 18-04-2016, in proceedings under section 143(3) of the Income Tax Act, 1961; in short the Act.

2. The revenue has raised following grounds of appeal:-

"1. The Ld. CIT(A) erred on facts and in law in deleting the disallowance out of provision of bad and doubtful debts made by the AO of Rs.2,32,17,061/-

*[Rs.2,70,69,600/- as disallowed by the AO less Rs.38,52,539/- allowable as deduction u/s. 36(1)(vii)(a), being 7.5% eligible income of Rs.5,13,67,182/-].*

*2. On the basis of the facts and circumstances of the case, the learned CIT (A) ought to have upheld the order of the Assessing Officer.*

*3. That the revenue craves leaves to add, amend, alter or withdraw any ground of appeal.*

*4. It is therefore prayed that the order of the CIT (A), Jamnagar may kindly be set aside and that of Assessing Officer be restored."*

3. The brief fact of the case is that return of income declaring income of Rs. Nil was filed on 24<sup>th</sup> Sep, 2012. Subsequently, the case was selected under scrutiny by issuing of notice u/s. 143(2) of the act on 14<sup>th</sup> August, 2013. The assessee is a co-operative society and is engaged in the business of banking. During the course of assessment proceedings, the assessing officer noticed that assessee has claimed deduction u/s. 36(1)(viii) of the act. The assessee was asked to furnish the details in support of deduction claimed. In this respect, the assessee has furnished the required detail comprising of working of deduction as produced on page no. 2 and 3 of the assessing officer's order. The assessee has also submitted chart reflecting advance outstanding of the branches having population below 10,000 for the year under consideration. The assessing officer observed that assessee has computed aforesaid deduction on the basis of outstanding advance for the month which resulted in multiple deduction on same advances year by year. He was of the view that only rural advances made in the month under consideration and which are outstanding as on last assessment year of that month have to be taken into consideration. He was of the view that the rule 6ABA pertained to the advances made by each rural branch which are outstanding at the end of each month in the previous year. Therefore, he observed that the deduction is allowable only for the advances made in the current year and that too for those which are outstanding at the end of each month. He has further stated that opening advances figure on 1<sup>st</sup> April of each financial year has to be ignored. He further stated that fresh monthly balance is to be ascertained and average advances to be restricted to the number of months in which fresh advances were made. Consequently, he has determined the total amount of Rs. 20,18,34,00/- as 10% of total aggregate advances of Rs.

20,18,34,000/-made rural Branches. Accordingly, he has restricted the deduction of bad doubtful debt to Rs. 20,18,34,00/-.

4. Aggrieved assessee filed appeal before the Id. CIT(A). The Id. CIT(A) has deleted the disallowance made by the assessing officer stating that the assessing officer has completely misunderstood the provision.

5. During the course of appellate proceedings before us, Id. departmental representative supported the order of assessing officer. On the other hand, Id. counsel has contended that Id. CIT(A) has correctly allowed the claim of the assessee as per the provision of section 36(1)(viii)(a) of the act. He has also placed reliance on the decision of the ITAT Bangalore vide ITA No. 865/Bangl/2017 in the case of Canara Bank vs. JCIT and the decision of ITAT Hyderabad vide ITA no. 1161/Hyd/2011 in the case of ITO vs. Nizamabad Dist. Co-operative Bank Ltd.

6. We have heard both the sides and perused the material carefully. The Rule 6ABA provides the procedure for computation of provision for bad and doubtful debt. After perusal of the above rule, we observed that nowhere it has been provided that only fresh advances made by each rural branch during the each month is to be considered for computation of outstanding amount of advances for rural branches. We have further noticed that the identical issue has been adjudicated by the ITAT Bangalore in the above cited case wherein it is held that as per the provision u/s. 36(1)(viii)(a) and Rule 6ABA the 10% of aggregate average advances has to be worked out on the entire outstanding advances and not the advances of that month alone. After perusal of the above facts and the findings, we are of the view that method adopted by the assessing officer for computing the aggregate overall advance in respect of rural branches is not correct and Id. CIT(A) has correctly decided this issue in favour of the assessee. In view of the above, the appeal of the revenue is dismissed.

7. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 27-08-2018

**Sd/-**  
**(RAJPAL YADAV)**  
**JUDICIAL MEMBER**  
**Ahmedabad : Dated 27/08/2018**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

आदेश क० तालम अ० षत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Rajkot