

IN THE INCOME TAX APPELLATE TRIBUNAL
RANCHI BENCH, RANCHI
(Before Shri S. S. Godara, J.M. & Dr.A.L.Saini, A.M.)

ITA No. 193/Ran/18 : Asstt. Year : 2008-09

ITA No. 194/Ran/18 : Asstt. Year : 2009-10

A.C.I.T, Circle-3(1), Deoghar	Vs	M/s. Deoghar Jamtara Central Co-operative Bank Limited PAN: AAAAD4856C
(APPELLANT)		(RESPONDENT)

Appellant/revenue by : Shri P.K. Mondal, JCIT/ld.DR

Respondent/assessee by : Shri Navin Dorania, ld.AR

Date of Hearing : 11-01-2019

Date of Pronouncement: 05-04-2019

ORDER

PER BENCH:

The captioned two appeals filed by the revenue, are directed against the separate orders dated 23-03-2018 passed by the ld. Commissioner of Income-tax (Appeals), Dhanbad, which in turn arise out of the separate orders passed by the Assessing Officer u/s. 143(3) of the Income-Tax Act, 1961 (in short, the Act) dated 30-12-2010 & 30-11-2011, respectively.

2. Since these two appeals pertain to the same assessee, different assessment years, common and identical issues are involved, therefore, these have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity.

ITA No. 193/Ran/2018 for the A.Y 2008-09(by the revenue):

3. The Revenue's appeal in ITA No. 193/Ran/2018 for the A.Y 2008-09 is taken as a lead case. Grounds of appeal raised by the revenue in ITA No. 193/Ran/2018 for the A.Y 2008-09 are as under:-

1. *Addition of Rs. 74,992/- on account of interest income on Nabard Bonds for the period from 01.02.2008 to 31.03.2008.*
2. *Addition of Rs. 21,96,500/- on account of suspense account.*

Basis of addition/disallowance made in assessment order:- On Perusal of the account of the assessee, it appears that the assessee has invested Rs. 49,99,500/- in Nabard Bhavishya Nirman Bonds on 01.02.2008 which is in the nature of Deep Discount Bonds maturing in 2018. Since, the account of the assessee is on accrual basis, but the interest on this investment is not shown by the assessee. Hence Rs. 74,992/- is added back in the income of the assessee.

On perusal of account of the assessee, it was found that the assessee has a credit balance of Rs. 21,96,500/- under the head suspense account. During the course of hearing the A/R of the assessee was asked to produce the details of suspense account to prove identity, credit worthiness and genuineness of the transaction. But, the assessee has failed to submit any evidence in this regard. Hence Rs. 21,96,500/- is added back in the income of assessee.

Reasons for grant of relief by CIT(A):- The Ld. CIT(A) has granted relief to the addition of Rs. 74,992/- on account of interest on Nabard Bhavishya Nirman Bond. These bonds are Deep Discount Bond maturing in 20 18. As per the norms of bond these are taxable only in year of maturity. Hence the addition is deleted, but it is a fact confirmed by the 'A', that maintains its accounts on mercantile system. Therefore, interest should have been brought purview on accrual basis.

The Ld. CIT(A) has granted relief the addition of Rs. 21,96,500/- on account of suspense account but in spite of allowing, the assessee failed to substantiate its claim. That the amount in suspense account is due to some claimants.

In the light of the above facts, it is evident that Ld. CIT(A) has taken misconception point of view in respect of both the factual points.

4. Ground no. 1 relates to addition of Rs. 74, 992/- on account of interest income on Nabard Bonds for the period from 01/02/2008 to 31/03/2008.

5. Brief facts qua the issue are that the ld. AO has made an addition of Rs. 74, 992/- as accrued Income on Bonds for the period from 01/02/2008 to 31/03/2008, as observed from the assessment order:-

“It appears that appellant has invested Rs. 49,99,500/- in NABARD Bhavishya Nirman Bonds on 01.02.2008 which is in the nature of Deep Discount Bonds maturing in 2018. Since, the account of the appellant is on accrual basis, but the interest on the investment is not shown by the appellant. The appellant has submitted that, since for the financial year 2007-08, investment was only for two months. Hence, accrued interest for the two months will be Rs. 74,992/-. But, the appellant had accepted that the interest was shown in the accounts, because it is the bank policy to recognize the interest on these bonds on cash basis i.e. on receipt basis and to compute the gains as capital gains “.

6. On appeal, ld. CIT(A) deleted the addition observing the followings:-

“During the year appellant has invested Rs.49,99,500/- on 01.02.2008 in NABARD Bhavishya Nirman Bond. These bonds are Deep Discount Bond maturing in 2018. As per terms of bond these are taxable only in the year of maturity. These zero coupon bonds are notified u/s.2(48) of Income Tax Act 1961 by Government of India. These will be taxed as per rate to be specified in the year of maturity. Hence, addition of Interest of Rs.74,992/- is not required to be accounted for. The appellant bank is not required to take accrued Income as these Bonds are in the nature of Capital Assets, hence there will be no accrual of Income, even though Bank.is maintaining accounts as per Mercantile System of Accounting. Revenue can be only recognised upon maturity as per terms of Issue of Bonds. The

contention of the appellant is accepted. Accordingly the addition is made by the A.O. on account of Non-accrual of Interest on NABARD Bhavishya Nirman Bond is not justified. Hence the addition is deleted.”

7. We have heard both the parties and perused the material available on record. We note that Id. CIT(A) has passed a reasoned order therefore, does not require interference. These bonds are capital in nature hence there will be no account of income. Revenue will be recognized on maturity as per terms of bonds. Hence we confirm the order of CIT(A).

8. Next ground relates to addition of Rs. 21,96,500/- on account of suspense account.

9. The brief facts qua the issue are that AO made the addition of Rs. 21,96,500/- towards suspense account. The Ld. Assessing Officer has made this addition of Rs.21, 96,500/ - as being the amount lying under the head "Suspense Account" for which there was no specific claimant.

10. On appeal, Id. CIT(A) deleted the addition, observing the followings:-

“During the course of hearing, the detail of this account is filed as appellant has explained that there are unclaimed deposits lying for so many years. This unclaimed deposit represents the amount lying in suspense account for which no proper particulars are filled-up by the customers of the bank hence could not be credited to proper account. This amount cannot be considered as cash credit as taken by Assessing Officer. There is no question of justifying the identity, creditworthiness and genuineness of the transactions since these are accepted by the appellant which is carrying on banking business. When an appellant is carrying on banking business the provision of section 68 does not apply to the extent where transactions are done in

the normal course of business. Thus no addition u/s 68 can be made by Ld. Assessing Officer.

Further 'Unclaimed Deposit' of customers cannot be taken as cessation of liability unless it is approved by the RBI. A Banking Company is regulated by Banking Regulation Act 1949 under the control and supervision of RBI. Hence bank cannot unilaterally treat the same as cessation of liability. The provision of Limitation Act 1963 is also not applicable to write-off this amount as 'liability'. Hence, banks are -duty bound to keep this amount as liability unless RBI directs it to consider it as income i.e. cessation of liability. Hence this amount cannot be taken as income. The view is supported by decision of Hon'ble ITAT Cochine Bench in the Catholic Syrian Bank Ltd V Additional CIT where it is has held that Unclaimed Deposit of customers cannot be considered as income of a Banking Company. This amount of Public Deposit can never be bank's income. In case of non claim by depositors it will be transferred to state/central govt. fund as per RBI directive. This bank is fully controlled by Co-operative Department of state Govt. In any case it cannot be cessation of Liability.

The contention of the appellant that these amounts at any stage have no limitation for holding. The providing of interest on such unclaimed deposits will continue at all times is acceptable in the light of the above judgement quoted. Accordingly the Ld. A.O was not justified in adding the same. Hence the addition is deleted “.

11. We have heard both the parties and perused the material available on record. We note that unclaimed deposit of customers cannot be considered as income of a banking company. In case of non-claim by depositors, it will be transferred to state/central government fund as per RBI directive. Therefore, we do not find any infirmity in the order of CIT(A), his order on this issue is hereby upheld, and grounds raised by Revenue are dismissed.

12. In the result, both the revenue's appeals are dismissed.

Order Pronounced in the Open Court on 05-04-2019

Sd/-

(S. S. Godara)
Judicial Member

Sd/-

(Dr. A.L.Saini)
Accountant Member

Dated: 05-04-2019

*PRADIP (Sr.PS)

Copy of the order forwarded to:

1. The Appellant/Revenue: The ACIT, Cir-3(1), Deoghar, Krishnapuri, Williams Twon, Deoghar-814112.
2. The Respondent/Assessee: M/s. Deoghar Jamtara Central Co-operative Bank Ltd, Court Road, Deoghar-814112.
3. The CIT-,
4. The CIT(A)-,
5. DR, Ranchi Benches, Ranchi

True Copy, By order,

Assistant Registrar /Senior P.S
ITAT, Ranchi Benches