

IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH : BANGALORE

BEFORE SHRI N.V VASUDEVAN, VICE PRESIDNET AND
SHRI B.R BASKARAN, ACCOUNTANT MEMBER

ITA Nos.2837 to 2841/Bang/2018
Assessment years : 2006-07 to 2010-11

M/s Raichur Central Co-operative Bank Ltd., P.B No.33, No.12.7.149/1, RDCC Bank Administrative Building, Gunj Road, Raichur-584 102. PAN – AAIFR 6876 R.	Vs.	The Director of Income-tax (Intelligence & Criminal Investigation), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Narendra Sharma, Advocate
Respondent by	:	Dr. Shankar Prasad, Addl. CIT

Date of hearing	:	10.06.2019
Date of Pronouncement	:	.06.2019

ORDER

PER BENCH:

All these appeals filed by the assessee are directed against the ex-parte orders passed by Ld CIT(A)-10, Bengaluru and they relate to the assessment years 2006-07 to 2010-11. In all these appeals, the assessee is aggrieved by the decision of Ld CIT(A) in dismissing the appeals by holding that they are not maintainable.

2. The assessee is a co-operative bank. The Ld DIT (Intelligence & Criminal Investigation) noticed that the assessee has not filed

Annual Information return as required by the provisions of Sec.285BA of the Act for all the years under consideration. Accordingly he levied penalty u/s 271FA of the Act in all the years under consideration for the above said failure.

3. The assessee challenged the orders so passed by Ld DIT (Intelligence & Criminal Investigation) by filing appeals before Ld CIT(A). The first appellate authority, however, took the view that the order passed u/s 271FA of the Act is not an appealable order in terms of provisions of sec.246A of the Act. Accordingly he dismissed all the appeals filed by the assessee before him holding them as infructuous.

4. Aggrieved, the assessee has filed these appeals before us.

5. The Ld A.R submitted that impugned penalty has been levied u/s 271FA of the Act and the said section falls under "Chapter XXI" of the Income tax Act. Adverting our attention to clause (q) of sub.sec.(1) of sec.246A of the Act, the Ld A.R submitted that an order imposing penalty under Chapter XXI is included in the list of appealable orders before Ld CIT(A). Accordingly he submitted that the Ld CIT(A) was not correct in law in holding that the impugned orders are not appealable before him.

6. The Ld D.R, on the contrary, supported the orders passed by Ld CIT(A).

7. We heard the parties and perused the record. We have gone through the provisions of sec.246A, which lists out the orders appealable before Commissioner (Appeals). Clause (q) of sub.sec.(1) of sec.246A reads as under:-

“(q) an order imposing a penalty under Chapter XXI”

Admittedly, the impugned orders have been passed u/s 271FA, which falls under Chapter XXI of the Income tax Act. Hence the Ld CIT(A) was not correct in law in observing that the orders passed u/s 271FA are not appealable before him u/s 246A of the Act. Accordingly we set aside the orders passed by him for all the years under consideration. Since the Ld CIT(A) has not adjudicated the grounds on merits, we restore all the matters to his file for adjudicating the appeals of the assessee on merits.

8. In the result, all the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the Open Court on **10th June, 2019.**

Sd/-
(N.V Vasudevan)
Vice President

Sd/-
(B.R Baskaran)
Accountant Member

Bangalore,
Dated, 10th June, 2019.

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.

1. Date of Dictation
2. Date on which the typed draft is placed
before the dictating Member
3. Date on which the approved draft comes to Sr.P.S
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4. Date on which the fair order is placed
before the dictating Member
5. Date on which the fair order comes back to the Sr.
P.S.
6. Date of uploading the order on
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12. The date on which the file goes to dispatch section for
dispatch of the Tribunal Order
13. Date of Despatch of Order.
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