

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 2363/Ahd/2016

(निर्धारण वर्ष / Assessment Year: 2013-14)

The S.K. Dist. Central Co.Op. Bank Ltd. Himatnagar- 383 001 Dist- Sabarkantha	बनाम/ Vs.	ACIT S.K. Circle, Aaykar Bhavan, Nr. Gandhi Town Hall, Himatnagar- 383 001, Dist- Sabarkantha
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAA AT1 019 P		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri A. C. Shah, AR
प्रत्यर्थीकीओरसे / Respondent by:	Shri S. K. Dev, Sr. DR

सुनवाईकीतारीख/Date of Hearing	27/06/2019
घोषणाकीतारीख /Date of Pronouncement	23/09/2019

आदेश/ORDER

PER AMARJIT SINGH - AM:

The appeal filed by the Assessee for A.Y. 2013-14, arise from order of the CIT(A)-2, Ahmedabad dated 17.08.2016, in proceedings under section 143(3) of the Income Tax Act, 1961; in short "the Act".

2. The first ground of appeal of the assessee is pertained to the disallowance of provision of computer assistance incentives of Rs. 1,50,00,000/-. The assessee has filed appeal against the decision of Ld. CIT(A) in confirming the disallowance of provision for computer assistance incentives of Rs. 1,50,00,000/- on the ground that it is not ascertained liability.

3. The fact in brief is that assessee has filed return of income on 29.09.2013 declaring total income of Rs. 11,06,98,580/-. The case was subject to scrutiny assessment and notice u/s. 143(2) of the Act was issued on 02.09.2014.

During the course of assessment the AO noticed that assessee has claimed an amount of Rs. 1,50,00,000/- in the profit and loss account under the head provision for computer assistance incentive. The AO observed that assessee has not incurred any expenses out of the provision and it was not ascertained liability. He has further observed that out of the aforesaid provision an amount of Rs. 77,35,500/- was incurred in the subsequent year after 07.09.2013. Therefore, he was of the view that the amount claimed under the head computer assistance incentive was not allowable. The assessee has explained that it was Apex District Cooperative Bank and its main object was to provide assistance to the primary agricultural societies. The Board has passed Resolution for providing assistance for installation of computer in primary agricultural society, therefore, the assessee has made the aforesaid provision since the liability was ascertained liability. However, certain primary agricultural societies have failed to seek computer assistance, therefore, the actual amount for the aforesaid expenditure was incurred in the subsequent year to the extent of Rs. 77,35,500/- and the assessee has transferred the balance amount of Rs. 72,64,500/- to the profit and loss account during the subsequent year. The AO has not accepted the explanation of the assessee stating that assessee bank has not provided the list of all the credit cooperative society for which the provision of computer assistance of Rs. 1,50,00,000/- was made. The AO was of the view that the aforesaid provision was not allowable as there were no ascertained liabilities to create the provision during the year under consideration. Therefore, the AO has disallowed the amount of Rs. 1,50,00,000/- and added to the total income of the assessee.

4. The second ground of appeal of the assessee is against the decision of the Ld. CIT(A) in confirming the disallowance of provision for core banking solution of Rs. 1,50,00,000/- on the ground that it is not ascertained liability.

During the course of assessment the AO noticed that assessee has made provision of Rs. 1,50,00,000/- under the head unpaid CBS expenses during the year under consideration. The AO has further observed that out of the aforesaid provision an amount of Rs. 1,09,98,641/- was incurred in the period from 09.07.2013 to 31.03.2015 which pertained to subsequent two years and remaining amount was not utilized at the end of the two subsequent years. He was also of the view that assessee had not incurred any expenses out of the provision during the year under consideration and there was no ascertained liability to create the aforesaid provision under the head of CBS expenses. The assessee explained that the provision for expenses of Core Banking Solution was made on the basis of negotiation with TCS and installed CBS system was commenced from June 2012 onwards. The assessee has further submitted that the TCS has raised bill of only Rs. 1,09,98,641/- and the balance amount of Rs. 40,01,359/- to be transferred to the profit and loss account in succeeding years. The AO has not accepted the explanation of the assessee and observed that the assessee has actually incurred an amount of Rs. 1,09,98,641/- for the purposes of CBS in the subsequent year and there was no ascertained liability. Therefore, the full amount of provision under head of CBS expenses of Rs. 1,50,00,000/- was disallowed and added to the total income of the assessee.

5. The aggrieved assessee has filed appeal before the Ld. CIT(A). Ld. CIT(A) has dismissed the appeal of the assessee.

6. During the course of appellate proceeding before us the Ld. Counsel has submitted Paper Book comprising detail and copies of document furnished before the AO and the CIT(A) at the time of hearing. The Ld. Counsel has also submitted copies of agreement for core banking project implementation executed on February 2012, between the assessee and TCS Ltd. under ASP Model under the direction of NABARD (National Bank for Agriculture and Rural Development) for implementing core banking solution (CBS) to facilitate optimal technology in rural financial sector. Further the Ld. Counsel has also submitted copy of instructions from NABARD to provide various facilities to the farmers who are members of primary agriculture society by providing Kishan Credit Card, Credit Card, Debit Card etc. After referring

the aforesaid direction of the NABARD the Ld. Counsel has contended that providing computer assistance and core banking solution assistance under the direction of the NABARD to the primary agricultural cooperative society was the ascertained liability of the assessee. Therefore, the decision of Ld. CIT(A) in confirming the disallowance made by the AO is not justified.

7. On the other hand, the Ld. DR supported the order of the lower authorities.

8. We have heard both the sides and perused the material on record. The AO has disallowed the provision for computer assistance incentives of Rs. 1.50 crore on the ground that this liability was not ascertained liability. In this regard, we have noticed that NABARD vide Circular No. 228/PCD-25 has advised the District Central Cooperative Bank to provide various facilities to the farmers who are members of primary agricultural society by providing Kishan Credit Card, ATM Card, Debit Card, POS Machine, Mobile Based Transfer etc. In order to implement, the aforesaid operation it was required to computerised the functioning of primary agricultural society as advised by the NABARD. The NABARD advised that it will be necessary that the society member introduce computer system so that the transaction between the banks and members were easily recorded and it would provide convenience to both the societies. Therefore, the Board by its Resolution dated 26.02.2013 placed at page 4 of the Paper Book has decided to provide computer assistance to the societies by giving assistance according to grade of the society. The assessee bank has also addressed letter dated 09.03.2013 to all the cooperative societies who were eligible for assistance for computerisation as per the scheme. In the light of the above facts and circumstances, it is clear that the assessee bank has made provision after making compliance to the guidelines of the NABARD and Resolution of the Board for providing computer assistance to the cooperative societies. However, some of the society has defaulted in availing the assistance therefore, the balance unutilised amount was credited to the profit and loss account.

The assessee has also made provision for Core Banking Solution (CBS) for Rs. 1.50 crore. It is demonstrated from copy of agreement executed in the February 2012

with TCS Ltd. that the total expenditure of CBS system would be around Rs. 1.50 crore to implement the guideline of National Bank for Agriculture and Rural Development to ensure availability of software application like core banking application, E-Mail system and other application and each user machine for enabling the bank to conduct banking function in an uninterrupted manner. However, finally the TCS has charged Rs. 1,09,98,641/- and the balance amount was subsequently credited to the profit and loss account. It is clear from above fact that both the liabilities were ascertained liability which were created under the guidelines of National Bank for Agriculture and Rural Development which is a apex bank established under the Act of Parliament viz. NABARD in 1981 for providing and regulating credit and other facilities for promoting integrated rural development and supervising and controlling the cooperative bank. Considering the above facts and circumstances as adduced above the impugned provisions were created as per the guidelines of NABARD, therefore, the same were of the nature of ascertained liability. Therefore, both the grounds of appeal of the assessee are allowed.

9. In the result, the appeal of the assessee are allowed.

This Order pronounced in Open Court on 23/09/2019

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Ahmedabad: Dated 23/09/2019

TANMAY

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आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।