

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**  
**AND SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No. 282/Ind/2018**

**Assessment Year 2012-13**

ACIT-2(1), Ujjain	Vs.	Jila Sahakari Kendriya Co-Operative Bank Maryadit, Rajgarh (Biaora), M.P.
(Revenue)		(Respondent )
PAN AAAAJ4127E		

Revenue by	Smt. Ashima Gupta, CIT
Assessee by	Shri Vaibhav Jain, CA
Date of Hearing	10.10.2019
Date of Pronouncement	14.10.2019

**ORDER**

**PER MANISH BORAD, AM.**

The above captioned appeal is filed at the instance of revenue pertaining to Assessment Year 2012-13 and is directed against the orders of Ld. Commissioner of Income Tax (Appeals), (in short 'Ld.CIT(A)'), Ujjain dated 31.01.2018 which is arising out of the order u/s 143(3) of the Income Tax Act 1961(In short the 'Act') dated 09.03.2015 framed by ACIT-2(1), Ujjain.

2. Brief facts of the case as culled out from the records are that the assessee is a Co-operative Bank deriving income from banking business. Return of income was filed on 30.09.2012 declaring NIL income. Case selected for scrutiny through CASS followed by serving of notices u/s 143(2) and 142(1) along with the questionnaires. After considering the submissions of the assessee Ld. A.O made following additions assessing the income at Rs.12,16,94,998/-:-

Total income as per return	Rs. Nil
Addition:	
(i) Interest income not offered for taxation (As discussed above in para 3)	Rs. 4,08,766/-
(ii) Disallowance out of interest expenses (As discussed above in para 4)	Rs.1,10,98,490/-
(iii) Income calculated as per para 5	Rs.5,35,51,742/-
(iv) Cessation of liability as per para 6	Rs.5,66,36,000/-
TOTAL ADDITION	<u>Rs.12,16,94,998/-</u>
Total Assessed Income	Rs.12,16,94,998/-
Round off to Rs. (u/s 288A)	Rs.12,16,95,000/-

3. Aggrieved assessee preferred appeal before Ld. CIT(A) and partly succeeded.

4. Now the revenue is in appeal before the Tribunal raising following grounds of appeal;

*“1. Whether on the facts and in the circumstances of the case, Ld. CIT(A) was justified in deleting the addition of Rs.4,08,766/- u/s 36(i)(viia) of the IT Act.*

*2. Whether on the facts and in the circumstances of the case, Ld. CIT(A) was justified in deleting the addition of Rs.4,34,22,000/- on account of cessation liability.”*

5. Apropos Ground No.1 for the addition of Rs.4,08,766/- u/s 36(i)(viia) of the Act for the interest income on Income Tax refund. Ld. Departmental Representative supported the order of Ld. A.O whereas the Ld. Counsel for the assessee submitted that the Ld. A.O made the addition for the same amount twice in the assessment order and Ld. CIT(A) has rightly deleted the addition.

6. We have heard rival contentions and perused the records placed before us. The revenue has challenged the deletion of addition of Rs.4,08,766/- made u/s 36(i)(viia) of the Act. We observe that the alleged amount relates to interest received on income tax refund which was not offered to tax. While framing the assessment Ld. A.O made the addition for the alleged amount in para 3. Thereafter in Para 5 Ld. A.O again made the addition for the same amount thereby making double addition. This is clearly a case of the double addition and Ld. CIT(A) has rightly appreciated the fact and deleted the addition of Rs.4,08,766/-. No interference

is called for in the finding of Ld. CIT(A) and Ground No.1 of the revenue stands dismissed.

7. Apropos Ground No.2 relating to addition of Rs.4,34,22,000/- u/s 41(1) of the Act on account of cessation of liability.

8. Ld. Departmental Representative vehemently argued supporting the order of Ld. A.O. Per contra Ld. Counsel for the assessee submitted that the alleged liability is for sundry creditors of Rs.4,34,22,000/- which is subsequently paid/adjusted during the financial year 2012-13. Ld. A.O made the addition without examining the details even when most of the sundry creditors falling under the alleged addition of cessation of liability were current liabilities pertaining to Assessment Year 2011-12 and not old liabilities as alleged by the Ld. A.O. All the details in support of the contention that the liabilities have been adjusted in subsequent year have been rightly accepted by Ld. CIT(A) thereby deleting the addition of Rs.4,34,22,000/-.

9. We have heard rival contentions and perused the records placed before us. Through Ground No.2 revenue has challenged the deletion of addition of Rs.4,34,22,000/- by Ld. CIT(A) which was

made by Ld. A.O on account of cessation of liability u/s 41(1) of the Act. Ld. CIT(A) deleted this addition giving following findings of fact;

*Ground No.6:- Through this ground of appeal the appellant has challenged the addition of Rs.5,66,36,000/- on account of cessation of liability. The AO made the addition on the ground that the same amount of balance is appearing in the case of some creditors since 31.03.2010. The AO treated the above creditors as bogus liability only. The appellant submitted that the liability in respect of the following creditors has been adjusted subsequently. The details are as under :-*

Sr No	Name of Branch H.O	Particulars	Date of Original Entry	Amount (Rs.)	Date of Adjustment
1	H.O	Madanlal Pushpad	31/03/2010	0.26	13/10/2012
2	H.O	Ramesh Tiwari	31/03/2010	0.25	25/05/2012
3	H.O	Khareef Protsahan Rashi	31/03/2010	0.87	13/10/2012
4	H.O	Gyasiram Yadav	31/03/2010	2.48	13/10/2012
5	H.O	Narayan Singh Yadav	31/03/2010	2.12	13/10/2012
6	H.O	Kaishar Singh Nagar	21/11/2011	0.81	26/10/2012
7	H.O	L.N Sahoo	06/01/2012	0.39	09/05/2012
8	H.O	R.L Nagar	16/03/2012	1.77	09/05/2012
9	H.O	Pratis Vyaj Protsahan Rashi	31/03/2012	16.13	31/08/2012

Jila Sahakari Kendriya Co-Operative Bank Maryadit  
ITA No.282/Ind/2018

10	H.O	Rajya Sangh Vyaj 10-1 I	31/03/2012	22.00	19/11/2012
11	H.O	Daam Dupat Yojana	31/03/2012	367.77	03/12/2012
12	H.O	L.C.O Antar Rashi	31/01/2012	16.91	28/09/2012
13	BODA	Madh Vidhyalay yamik Boda	24/11/2009	0.16	"
14	BODA	Prem Singh Rajput		0.10'	
15	BODA	Sardar Singh		0.62	
16	BODA	Lila Bai		0.61	—
17	KURA WAR	Prast Dugdh Sami avit Dugdh ti Gilak hedhi	08/02/2012	0.45	09/04/2012
18	KURA WAR	Prast Dugdh Sami avit Dugdh ti Mang alpur	16/02/2012	027	18/05/2012
19	KURA WAR	Prast Dugdh Sami avit Dugdh ti Rawa tpura	19112/20 11	0.25	26/04/2012
		TOTA L		434.22	

*From the above, it is clear that the liability to the extent of Rs4,34,22,000/- cannot be considered as a bogus liability. The AO is not justified in treating the liability of Rs4,34,22,000/-- as ceased liability u/s. 41 (1)(a) of the LT. Act. The appellant has made the payment of above liability subsequently. The appellant*

*has not furnished any details regarding the remaining liabilities of Rs.1,32,14,000/-. Therefore, the addition to the extent of Rs.1,32,14,000/- (Rs.5,66,36,000 – Rs. 4,34,22,000) is Confirmed. The appellant will get the relief of Rs.4,34,22,000/-.The appeal on this ground is Partly Allowed.*

10. From perusal of the above finding, we find that various sundry creditors included in the list of Rs.4,34,22,000/- stands adjusted/paid during the financial year 2012-13. It is also surprising to note that the Ld. A.O made the addition without examining the details about the period since the sundry creditors were outstanding since except the parties mentioned in No. 1 to 5 and No.13 all the remaining balances were for the year under appeal i.e. Financial Year 2011-12 which were regular accounts of sundry creditors which by no cannon could have been added u/s 41(1) of the Act as cessation of liability. The details filed by the assessee about the adjustment of sundry creditors in subsequent period has not been disputed before us. The alleged amount cannot be added u/s 41(1) of the Act for cessation of liability. No interference is therefore called for in the finding of Ld. CIT(A) and thus Ground No.2 of the revenue appeal stands dismissed.

15. In the result appeal of the revenue stands dismissed.

The order pronounced in the open Court on 14.10.2019.

Sd/-

Sd/-

**( KUL BHARAT )**  
**JUDICIAL MEMBER**

**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

दिनांक /Dated : 14 October 2019

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Copy to: The Appellant/Respondent/CIT concerned/CIT(A)  
concerned/ DR, ITAT, Indore/Guard file.

By Order,  
Asstt.Registrar, I.T.A.T., Indore