

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.460/Ind/2018**  
**Assessment Year: 2013-14**

Jharneshwar Nagrik Sahkari Bank Ltd. Bhopal	Vs.	ACIT-2(1) Bhopal
(Appellant)		(Revenue )
PAN No.AAAAJ9690E		

Appellant by	Shri Anil Kamal Garg & Arpit Gour, AR
Revenue by	Shri Puneet Kumar, Sr. DR
Date of Hearing	22.01.2020
Date of Pronouncement	28.01.2020

**ORDER**

**PER MANISH BORAD, AM.**

The above captioned appeal filed at the instance of assessee pertaining to Assessment Year 2013-14 is directed against the orders of Ld. Commissioner of Income Tax (Appeals) (in short 'Ld.CIT(A)'), Bhopal-1 dated 15.02.2018 which is arising out of the order u/s 143(3) of the Income Tax Act 1961(In short the 'Act') dated 22.02.2016 framed by ACIT-2(1) Bhopal.

2. Assessee has raised following grounds of appeal;

*“Grounds of Income-Tax appeal before the Hon'ble Income-Tax Appellate Tribunal, Indore Bench, Indore, against the Appellate Order passed under s. 250/143(3) of the Income-Tax Act, 1961 by the learned Commissioner of Income-Tax (Appeals)-I, Bhopal, pertaining to the A.Y. 2013-14 in response to the appeal filed against the Assessment Order under s. 143(3) of the Act, passed by the learned Assistant Commissioner of Income- Tax, 2(1), Bhopal.*

*1a). That, the learned CIT(A) grossly erred, both on facts and in law, in confirming the addition of Rs.1,29,56,000/- made by the AO under s.41(1)(a) of the Act without properly considering and appreciating the explanations of the appellant made before him.*

*Ib). That, the learned CIT(A) grossly erred, both on facts and in law, in confirming the addition of Rs.1,29,56,000/- made by the AO under s.41(1)(a) of the Act without properly considering and appreciating the material fact that the transfer of Rs.1,29,56,000/- from the Provisions for Bad & Doubtful Debts to Building Fund had not resulted into cessation of any liability as contemplated under the provisions of s.41 (1) of the Act.*

*1c). That, the learned CIT(A) grossly erred, both on facts and in law, in confirming the addition of Rs.1,29,56,000/- made by the AO under s.41(1)(a) of the Act without properly considering and appreciating the material fact that the appellant had neither obtained any amount, in any manner, in respect of the Provision for Bad & Doubtful Debts nor any benefit has got accrued to it by way of cessation or remission of any trade liability, and therefore, the amount so transferred from one fund to another fund could not be deemed to be profits and gains of business or profession under the provisions of clause (a) of sub-section (1) to section 41 of the Act.*

*1 d). That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in confirming the addition of Rs.1 ,29,56,000/- made by the AO under s.41(1)(a) of the Act without considering and appreciating the material fact that no specific deduction was allowed to the appellant in respect of the provision for bad and doubtful debts for computing the income of the year in which such provision was made. ”*

3. At the outset, Ld. counsel for the assessee requested for setting aside all the issues to the file of Ld. Assessing Officer by submitting that the alleged addition u/s 41(1)(a) of the Act at Rs.1,29,56,000/- needs verification at the end of the assessing officer for examining the actual amount of bad & doubtful debts recovered in the past years and also to verify the fact that major amounts of the provision for bad & doubtful debts debited to the profit and loss account were disallowed in the Income Tax return. In other words, they were added back to the income and no benefit was claimed. Reference was also made to various documents filed in the paper book in the form of financial statement computation of income from F.Y. 2003-04 to F.Y. 2013-14.

4. Per contra Ld. Departmental Representative (DR) objected to this request of ld. counsel for the assessee and prayed for confirming the addition thereby supporting the finding of both the lower authorities.

5. We have heard rival contentions and perused the records placed before us. Sole grievance of the assessee in this appeal relates to addition u/s 41(1)(a) of the Act at Rs.1,29,56,000/- for the alleged transfer of amount from the Provisions for Bad & Doubtful Debts to the Building Fund Account. Ld. Assessing Officer invoked the provision of u/s 41(1)(a) of the Act on account of remission and cessation of the liability which in this case was transfer of amount from provision for bad & doubtful debts to the Building Fund Account. From going through the finding of Ld. CIT(A), we observe

that the alleged addition was confirmed by observing *that “though this transfer of balance from the account of provisions for bad & doubtful debts to the building, benefit has been accrued to the assessee as the alleged amount of Rs.1,29,56,000/- which had been allowed as deduction u/s 36(1)(viia) of the Act in earlier years is no longer required as a provisions and the same, therefore, amount to cessation of liability allowed earlier.”* So the impetus of Ld. CIT(A) while deciding against the assessee was that a benefit has been claimed u/s 36(1)(viia) for the earlier years for the alleged amount.

6. However, as contended by the Ld. counsel for the assessee referring to page 30 of the paper book along with reference to computation of income and financial statements for F.Ys. 2003-04 to 2013-14, it has been submitted that the provisions made for bad & doubtful debts u/s 36(1)(viia) of the Act in the earlier years had not been totally allowed, as a deduction against the revenue because major portion of the provision of bad & doubtful debts were disallowed and added back to the income. It was also contended that taxability of an amount u/s 41(1)(a) of the Act will arise only in relation to the bad & doubtful debts recovered by the assessee and the exercise needs to be undertaken by the assessing officer.

7. We, therefore, in the given facts and circumstances of the case, and in the interest of justice accept the request of the Ld. counsel for the assessee and restore all the issues raised in this appeal to the Ld. AO with a direction to carry out an exercise of making verification of computation of income and financial statements for

F.Y. 2003-04 till 2012-13, in order to find the actual amount of provision of bad & doubtful debts allowed as an expenditure to the assessee as well as the amounts of bad debts recovered during these years and after carrying out of this exercise Ld. AO should proceed with the application of provision of u/s 41(1)(a) of the Act if applicable on the assessee and decide in accordance with law. Thus, all the grounds raised by the assessee are allowed for statistical purposes.

8. In the result appeal of the assessee is allowed for statistical purposes.

The order pronounced in the open Court on 28 .01.2020.

Sd/-

Sd/-

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

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

दिनांक /Dated : 28<sup>th</sup> January, 2020

Patel/PS

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

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