

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B”BENCH: BANGALORE**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

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| ITA No.2527/Bang/2017 |
| AssessmentYear: 2014 – 15 |

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| The RaddiSahakara Bank Niyamitha Bank Road Dharwad PAN NO :AAAAT3297K | Vs. | ACIT, Circle-2(1), Hubli |
| APPELLANT | | RESPONDENT |

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| Appellant by | : | N O N E |
| Respondent by | : | Shri PriyadarshiMisra, D.R. |

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| Date of Hearing | : | 13.07.2020 |
| Date of Pronouncement | : | 31.07.2020 |

ORDER

PERB.R. BASKARAN, ACCOUNTANT MEMBER:

The appeal filed by the assessee is directed against the order dated 24.7.2017 passed by Ld. CIT(A) Hubli and it relates to assessment year 2014-15. The assessee is aggrieved by the decision of Ld. CIT(A) in confirming the disallowance made by the A.O. in respect of claims made

u/s 36(1)(viia) & 36(1)(viii) of the Income-tax Act, 1961
['the Act' for short].

2. None appeared on behalf of the assessee even though the adjournments were granted to the assessee on the earlier occasions at the specific request of the counsel. Hence, we proceed to dispose of the appeal ex-parte, without presence of the assessee.

3. We heard Ld. D.R. and perused the record. The assessee is a co-operative society carrying on the business of banking. The assessee had claimed deduction towards Provision for bad and doubtful debts u/s 36(1)(viia) of the Act. The deduction is allowable, inter-alia @ 10% of the aggregate amount of average rural advances given by the assessee. The assessee had claimed deduction of Rs.1,01,32,700/- as 10% of average amount rural advances. The A.O. noticed that average amount of rural advances outstanding as at the beginning and end of the year was Rs.9.75 crores and 10% of the same worked out to Rs.97,56,000/-. Accordingly, the A.O. held that the

assessee has claimed deduction in excess by Rs.3,76,000/- and disallowed the above said amount.

4. The assessee had also claimed deduction of special reserve u/s 36(1)(viii) of the Act @ 20% of the profits derived from banking business. The amount claimed by the assessee is Rs.18.54 lakhs. The A.O. computed the amount of deduction at Rs.9.11 lakhs by adopting some methodology. Accordingly, he disallowed the excess claim of Rs.9.42 lakhs.

5. In the appellate proceedings, the Ld. CIT(A) confirmed both the disallowances cited above by observing that the assessee did not file any written submission in support of its contentions. Aggrieved, the assessee has filed this appeal before us.

6. We heard Ld. D.R. and perused the record. The first issue relates to disallowance made by the A.O. u/s 36(1)(viiia) of the Act. Under the above said section, the two fold deduction is allowed towards provision of bad and doubtful debts created by the assessee, i.e., (a) a specified percentage of total income and (b) an amount

not exceeding 10% of the aggregate average advances made by the rural branches. Provisions of rule 6ABA prescribes the methodology for computing aggregate average advances made by the rural branches. The said rule reads as under:

6ABA: For the purposes of clause (viia) of sub-section (1) of section 36, the aggregate average advances made by the rural branches of a scheduled bank shall be computed in the following manner, namely:-

- (a) the amounts of advances made by each rural branch as outstanding at the end of the last day of each month comprised in the previous year shall be aggregated separately;*
- (b) the sum so arrived at in the case of each such branch shall be divided by the number of months for which the outstanding advances have been taken into account for the purposes of clause (a);*
- (c) the aggregate of the sums so arrived at in respect of each of the rural branches shall be the aggregate average advances made by the rural branches of the scheduled bank.”*

7. A perusal of the above said rule would show that the methodology adopted by the A.O. in computing the average rural advances by considering only opening and closing balance of the year is not correct, i.e., the same is not in accordance with the method prescribed under Rule 6ABA. Accordingly, we are of the view that this issue requires fresh examination at the end of the A.O.

Accordingly, we set aside the order passed by the Ld. CIT(A) on this issue and restore the same to the file of the A.O. with the direction to examine the claim of the assessee in accordance with the methodology prescribed in Rule 6ABA.

8. The next issue relates to deduction claimed u/s 36(1)(viii) of the Act. From the submissions made before Ld. CIT(A) in the Statement of facts and Grounds of appeal, we notice that the assessee has been computing the deduction by following a particular method and it is followed consistently over the years. It is further stated that the said method of working has been accepted by the A.O. in the past. It is the say of the assessee that the A.O. has changed the methodology during the year under consideration, which was not warranted. Accordingly, it was contended that the A.O. was not correct in changing the methodology.

9. Though the Ld. CIT(A) has not given any opinion on this issue, the facts remains that the methodology adopted by the assessee over the years has been accepted

by the A.O. in the past. Hence, without finding any fault with the said methodology and without showing that the same results in allowing deduction of excess amount u/s 36(1)(viii) of the Act, it would not be proper on the part of the A.O. to change the methodology. Accordingly, we are of the view that this issue also requires fresh examination at the end of the A.O. Accordingly, we set aside the order passed by the Ld. CIT(A) on this issue and restore the same to the file of the A.O. with the direction to examine the claim afresh by duly considering the methodology consistently followed over the years.

10. Needless to mention that the assessee should be provided adequate opportunity of being heard.

11. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 31.07.2020.

Sd/-
(Pavan Kumar Gadale)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 31st July, 2020.
VG/SPS

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.