

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No. 7065 /Del/ 2017  
Assessment Year: 2013-14**

Delhi State Cooperative  
Bank Ltd, New Delhi  
AAAAT 9990D

Vs ACIT, Circle-52 (1),  
New Delhi

Applicant

Respondent

**Assessee by Mr. SL Gupta, CA  
Revenue by Mr. M. Bharanwal, Sr. DR**

**Date of Hearing 30/9/2020**

**Date of Pronouncement 30/9/2020**

**ORDER**

**PER K. NARASIMHA CHARY, JM**

Aggrieved by the order dated 18/4/2016 in appeal No. 18/10075/16-17, passed by the learned Commissioner of Income Tax (Appeals)-18, New Delhi ("Ld. CIT(A)") for the assessment year 2013-14, M/s Delhi State Cooperative Bank Ltd ("the assessee") filed this appeal.

2. Brief facts of the case are that the assessee is a co-operative Society registered with the Registrar of co-operative societies, GNCT of Delhi, carrying on the banking business under license from the reserve bank of India and the business of the assessee bank is to receive the deposits from members and non-members and to carry all other banking activities. For the assessment year 2013-14, assessee filed their return of income on 24/9/2013 declaring an income of Rs. 26,52,55,940/-. Assessment was

complete by order dated 22/3/2016 passed under section 143(3) of the Income Tax Act, 1961 (for short "the Act") at Rs. 27,70,39,800/-by making certain additions.

3. When the appeal was preferred before the Ld. CIT(A), Ld. CIT(A) granted relief in part to the assessee but confirmed the additions of Rs. 37,56,500/-towards the 10% of the other expenses to the tune of Rs. 3,75,65,003/-debited by the assessee to the P&L Account, and also in respect of the interest received on the Income Tax refund amounting to Rs. 8,03,940/-which the assessee claims to have already considered as income in their competition of income.

4. Assessee is, therefore, aggrieved by such confirmation of the additions and filed this appeal challenging those two additions. Insofar as the disallowance of 10% of expenses is concerned, learned Assessing Officer made the same observing that though the assessee had claimed the other expenses at Rs. 3,75,65,003/-in their P&L account, when called upon failed to furnish the bills/vouchers, in spite of several opportunities and therefore, such addition had to be made even while taking a lenient view. In respect of the interest received on Income Tax refund, learned Assessing Officer observed that the contention of the assessee that the bank had not received interest on Income Tax refund, the same cannot be accepted because it is found as per 26AS that the assessee had received the Income Tax refund of Rs. 1,10,72,018/-on 26/6/2012 including the interest complaint of Rs. 8,03,940/-and the onus to furnish the correct particulars of income in the Income Tax return lies with the assessee.

5. On the aspect of the 10% of disallowance of the other expenses, it was submitted by the assessee before the Ld. CIT(A) that no question of leakage of Revenue arises because the assessee is under the control of the

rules laid down by the Reserve Bank of India, which do not admit of any extraneous expenditure being incurred by the assessee bank, assessee referred to the system of Government audit carried out by the audit party every year to detect any incurring of expenditure not wholly and exclusively connected with the business of the bank, and that it was practically not possible for the assessee to maintain the details of petty expenses which did not involve the system of issue of vouchers, bills etc against prices charged by them.

6. In respect of the interest on Income Tax refund, assessee argued before the Ld. CIT(A) that the income tax refunds were registered by the Department against the demands of earlier years and the person dealing with Counsel no knowledge about the Income Tax refund received during the year, and it is a fact that being government department and the payment has been received by the cheque, it has duly been accounted for.

7. Ld. CIT(A), however, did not agree with the assessee on both the points. In respect of the 10% disallowance on other expenses, Ld. CIT(A) observed that the provisions of section 37 of the Act cannot be applied selectively, the criteria in the requirement laid down thereunder apply to all sundry with equal force, the said section does stipulate that all expenses of residuary nature have necessarily to be proved to be in connection with the business of the assessee for availing the benefit and since the assessee could not fulfil the entire requirement of the claim of the assessee, the same is bereft of any merit. So also, the Ld. CIT(A) observed that in one breath the assessee admits that the concerned official had no knowledge whether the Income Tax refund received during the year was accounted for, and in the same breath it was claimed that the interest on income tax

refund was duly accounted for by its tax auditor under the miscellaneous income. On this premise, Ld. CIT(A) confirmed both these additions.

8. Now, before us, Ld. AR submits that the assessee is an entity controlled by the rules laid down by the Reserve Bank of India, they do not spend any amount for the purposes other than the business purposes, and given an opportunity the assessee is ready to furnish the bills/vouchers before the assessing officer for verification. So also, it is submitted that the assessee is ready to prove their contentions before the assessing officer in respect of the interest on Income Tax refund and the treatment given to such income. Ld. DR consents for giving an opportunity to the assessee to put forth all their contentions before the learned Assessing Officer with reference to the documentary evidence, so that the learned Assessing Officer can take a fresh view on both these aspects.

9. Recording the same, we set aside the impugned order and remand the issues to the file of the learned Assessing Officer for verification of the record to be produced by the assessee on both these aspects and to reach a just conclusion. It is made clear that the assessee shall avail this opportunity without contending anything contrary to the submissions made before us.

10. Appeal of the assessee is, accordingly, allowed for statistical purpose.

**Order pronounced in the Open Court on 30/9/2020.**

Sd/-  
**(R.K. PANDA)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**