

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Nagpur Bench, Nagpur**

**Before Shri P K Bansal, Vice President  
and Shri Pawan Singh, Judicial Member**

**ITA No.154/NAG/2015**  
(Assessment Year: 2010-11)

The Nandura Urban Co-  
op. Bank Ltd.  
'Kalpataru', Station Road  
Nandura Dist  
Buldhana 443404

Commissioner of Income Tax-I  
Aayakar Bhavan  
Vs. Civil Lines, Nagpur

PAN - AAAAT3041F

**Appellant**

**Respondent**

Appellant by: Shri J.M. Ranade  
Respondent by: Shri Geetesh Kumar

Date of Hearing: 20.11.2017  
Date of Pronouncement: 20.11.2017



**ORDER**

**Per Pawan Singh, JM**

This appeal under Section 253 of the Income Tax Act by the assessee is directed against the order of the Principal Commissioner of Income Tax-I, Nagpur dated 26.03.2015 for A.Y. 2010-11.

2. Assessee has raised the following grounds of appeal: -
1. *The learned CIT-I, Nagpur erred in passing order u/s 263 of the Act dated 26.02.2014 without giving any opportunity of being heard to the assessee.*
  2. *The learned CIT - I, Nagpur erred in confirming the order of the AO denying Deduction of Rs.1,29,23,500 on the ground that the bank has made provision for Bad & doubtful debts which should be restricted to 7.5% of profits or 1% of rural advances u/s 36 (1) (viii) of the Act.*
  3. *The learned CIT - I failed to appreciate that your assessee is a co-operative bank governed by RBI regulations; and during the year, bank has made provision for bad doubtful debts for Rs. 1,29,23,500 as per RBI guidelines. Also section 36(1)(viii) was not*

6 applicable to assessee as it did not had any rural branches specified under the section.

4. The learned CIT ignored the fact that the provision for bad and doubtful debts are made as per RBI guidelines as per percentages prescribed depending on quality of debts / advances. The bad debt provisions are created for borrowers who had turned Non Performing Assets (NPA) due to non payment of interest and principal within due date. The intention of creating such provisions is to set aside profits of bank to protect against losses due to bad debts, which may arise in future. Hence the bad and doubtful debt provision is regular business loss in banking business recognized as per methodology prescribed by the regulator i.e. RBI. Hence the learned CIT erred in appreciating the above fact in his order u/s 263.
5. The learned CIT erred in disallowing the assessee claim of exemption on long term capital gains on sale of government securities. Assessee had infact incurred loss on sale of government securities after claiming indexation. But the learned CIT denied the assessee any opportunity of being heard so that explanation and evidence could be produced before the learned CIT in support of assessee claim."



3. At the outset of the hearing, we have noted that the appeal is not maintainable as the order is not appealable before the Tribunal as the present appeal is filed against the order passed by learned Pr.CIT under section 264 of the Act. The learned A.R. for the assessee could not show any law to convince us as to why the appeal is maintainable before Tribunal. As there is no express reference for maintaining appeal to the Tribunal under section 253 of the Act to file appeal against the order passed under section 264 of the Act, the appeal filed by the assessee is dismissed.

4. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 20<sup>th</sup> November, 2017.

Sd/-  
**(P.K. Bansal)**  
Vice President

Sd/-  
**(Pawan Singh)**  
Judicial Member

Nagpur, Dated: 20<sup>th</sup> November, 2017

Copy to:

1. The Appellant
  2. The Respondent
  3. The CIT(A) -, Nagpur
  4. The CIT - I, Nagpur
- The DR, Bench, ITAT, Nagpur

Guard file

Copy//



n.p.

By Order

व्यक्ति निजी सचिव  
Private Secretary  
ITAT, Nagpur  
आयकर अपीलिंग अधिकरण  
Income Tax Appellate Tribunal  
नागपुर पीठ / Nagpur Bench