

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
(THROUGH VIDEO CONFERENCING)**

ITA No.4240& 4241/Del/2018  
Assessment Year: 2015-16 & 2014-15

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| <b>DCIT<br/>Rohtak Circle<br/>Rohtak</b> | <b>Vs</b> | <b>The Rohtak Central<br/>Co-op Bank Ltd.<br/>Rohtak<br/>PAN No. AAAAT8736B</b> |
| <b>(APPELLANT)</b>                       |           | <b>(RESPONDENT)</b>   |

ITA No.4242/Del/2018  
Assessment Year: 2014-15

|  |           |   |
|--|-----------|---|
| <b>DCIT<br/>Rohtak Circle<br/>Rohtak</b> | <b>Vs</b> | <b>The Jhajjar Central<br/>Co-op Bank Ltd.<br/>Jhajjar<br/>PAN No. AAAJT0887E</b> |
| <b>(APPELLANT)</b>                       |           | <b>(RESPONDENT)</b>   |

ITA No.4243/Del/2018  
Assessment Year: 2015-16

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|--|-----------|---|
| <b>ACIT<br/>Rohtak Circle<br/>Rohtak</b> | <b>Vs</b> | <b>The Jhajjar Central<br/>Co-op Bank Ltd.<br/>Jhajjar<br/>PAN No. AAAJT0887E</b> |
| <b>(APPELLANT)</b>                       |           | <b>(RESPONDENT)</b>   |

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|---------------|-------------------------------|
| Appellant by  | None                          |
| Respondent by | Sh. Anil Kumar Sharma, Sr. DR |

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|------------------------|------------|
| Date of hearing:       | 09/11/2021 |
| Date of Pronouncement: | 09/11/2021 |

**ORDER****PER N. K. BILLAIYA, AM:**

ITA No.4240/Del/2018 and 4241/Del/2018 are two separate appeals by the revenue preferred against the order of the CIT(A), Rohtak dated 28.03.2018 pertaining to A.Y. 2014-15 and 2015-16 in the case of Rohtak Cooperative Bank Limited, Rohtak.

2. ITA No.4242/Del/2018 and 4243/Del/2018 are two separate appeals by the revenue preferred against two separate orders of the CIT(A), Rohtak dated 28.03.2018 pertaining to A.Y.2014-15 and 2015-16 in the case of Jhajjar Central Cooperative Bank Limited, Jhajjar.

3. Vide email dated 06.11.2021 the revenue sought adjournment but on perusal of record we find that the issues raised by the revenue in the impugned appeals are squarely covered in favour of the assessee and against the revenue by the earlier order of this Tribunal, therefore, the request for adjournment were denied and the DR agreed to proceed.

4. None appeared on behalf of the assessee. We heard the DR at length and carefully perused the case record. The common grievance in the impugned appeals relates to the deletion of the addition on account of interest accrued but not received on NPA

account/ doubtful accounts, though quantum may differ in the captioned appeals.

5. We find that this issue was considered by this Tribunal in the case of Rohtak Central Co-operative Bank Limited, Rohtak in ITA No.4924/Del/2016. The relevant findings of this Tribunal read as under :-

*“6. We find that the said issue stands covered by the order of the Tribunal (supra) in assessee’s own case. The relevant findings are in para 3.4 & 3.5 of the order (supra) and we do not reproduce the same for the sake of brevity. Following the same parity of reasoning, we hold that there is no merit in making the aforesaid addition on account of accrual of interest on NPAs. Thus, Ground No.1 raised by the Revenue is dismissed.”*

6. Respectfully following the findings of the coordinate Bench (supra) the common grievance in all the appeals is dismissed.

7. In ITA No.4242/Del/2018 in the case of Jhajjar Central Cooperative Bank Ltd. the second grievance of the revenue is that the CIT(A) erred in deleting the addition of Rs.4.50 lacs on account of provision for audit fee.

8. During the course of the scrutiny assessment proceedings it was brought to the notice of the AO that similar provision was made during preceding year which was disallowed by the

assessee himself in computation of income. The said amount of Rs.4.50 lacs was paid during the year under consideration, therefore, should be allowed as deduction.

9. The submission of the assessee did not find any favour with the AO who disallowed of Rs.4.50 lacs.

10. Before the CIT(A) the assessee reiterated its contention. The CIT(A) was convinced with the claim of the assessee and found that the AO has made the disallowance with a finding that the assessee has not been able to substantiate the reason for making such a provision. The CIT(A) further found that the provision of Rs.4.50 lacs was on account of audit fee of 27 branches and head office which comprised of tax audit fees 3 lacs and statutory audit fees of Rs.1.50 lacs. The CIT(A) further found that this is a consistent method followed by the assessee from past many years and, therefore, directed the AO to delete the addition.

11. We have carefully perused the order of the CIT(A). In our considered opinion statutory audit fees payable to the audit of a bank is an ascertain liability and we do not find any error or infirmity in the provision created by the assessee. The CIT(A) has rightly deleted the addition for which no interference is called for.

12. Ground No.2 in ITA No.4242/Del/2018 is dismissed.

13. Ground No.3 in ITA No.4242/Del/2018 relates to the deletion of the addition of Rs.1185806/- on account of provision for embezzlement in one of the branches of the assessee.

14. During the assessment proceedings the assessee explained that there was an embezzlement made by an employee of the bank Sh. Daljeet Singh during last 4-5 years against whom FIR has been lodged on 13.04.2012. It was explained that this employee collected amounts from several customers visiting the bank on different occasions in different years and issued receipts for cash but did not enter these amounts in the bank record. The fact came to the light when the customers tried to withdraw their deposits from the bank account but they were told that they are not having sufficient balance in their bank accounts.

15. The Bank constituted a committee to make enquiries in detail and after detailed enquiries the committee started the work of settlement of claims w.e.f. 23.04.2013. The committee assessed the loss at Rs.11180552/- in different accounts. Out of this total embezzlement of Rs.11180552/-, a provision of Rs.9844746/- was made on 31.03.2013 relevant to A.Y.2013-14, a provision of Rs.1185806/- was made on 31.03.2014 relevant to A.Y.2014-15 and for balance of Rs.1.50 lacs provision was made on 31.03.2015 relevant to A.Y.2015-16. It was further explained that this amount does not represent any provision of unascertained liability rather this is the ascertained liability

actually paid to the depositors. The amount disbursed and reimbursed to the customers on actual basis after making deep enquiries by bank committee has been debited to the P & L account after approval from the concerned department.

16. The detailed explanation by the assessee did not find any favour with the AO who made the disallowance of Rs.1185806/-.

17. Before the CIT(A) the assessee explained the entire transaction after considering the underlying facts the CIT(A) found that the AO has disallowed the claim of the assessee by stating that this loss should have been debited from regular provision made in this regard such as NPA provision or it should have been claimed from insurance company. The CIT(A) was convinced with the claim of the assessee and directed the AO delete the addition.

18. We have carefully considered the factual matrix revolving around this embezzlement provision. We find that pursuant to the report of the committee constituted by the bank, the bank started reimbursing the amount to the depositors who were victims of the embezzlement. We further find that there was no insurance policy on this account. We further find that proof of amounts credited to the depositors has been submitted before the AO. In our considered opinion the assessee bank has incurred this loss in the regular course of this business activity. The

CBDT in its circular no. 13 (C.no. 27, 29-IT/43) of 24.05.1994 has made clear that if the assessee claim loss in course of business, unimpeachable evidence to support actual loss must be given. The assessee bank has given conclusive evidence of the payments credited to the depositors. Considering the plethora of evidence furnished by the assessee and considered by the CIT(A), we do not find any error or infirmity in the findings of the CIT(A) ground No.3 is also is dismissed.

19. Ground No.4243/Del/2018 is identical to ground No.3 of ITA No.4242/Del/2018 (supra) for our detailed reasons given in this ground is also dismissed.

20. In the result, the captioned appeals by the revenue are dismissed.

21. Decision announced in the open court in the presence of both representatives on 11.11.2021.

Sd/-  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

\*NEHA\*

Date:-11.11.2021

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI

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| Date of dictation  | 11.11.2021 |
| Date on which the typed draft is placed before the dictating Member                  | 11.11.2021 |
| Date on which the typed draft is placed before the Other member                      | 11.11.2021 |
| Date on which the approved draft comes to the Sr.PS/PS                               | 11.11.2021 |
| Date on which the fair order is placed before the Dictating Member for Pronouncement | 11.11.2021 |
| Date on which the fair order comes back to the Sr. PS/ PS                            | 11.11.2021 |
| Date on which the final order is uploaded on the website of ITAT                     | 11.11.2021 |
| Date on which the file goes to the Bench Clerk                                       |            |
| Date on which file goes to the Head Clerk.   |            |
| The date on which file goes to the Assistant Registrar for signature on the order    |            |
| Date of dispatch of the Order  |            |