

आयकर अपीलिय अधिकरण "बी" न्यायपीठ पुणे में ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE**  
**(Through Virtual Court)**

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI PARTHA SARATHI CHAUDHURY, JM**

आयकर अपील सं. / ITA No.1807/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2015-16

ACIT, Circle-2,  
Kolhapur.

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s. The Kolhapur District Co-Op.  
Agriculture Multipurpose Development  
Bank Ltd.,  
E, 204, Kh, Vikas Bhavan, Near St. Stand,  
Tarabai Park Kolhapur- 416002.

PAN : AAAAT5886G

.....प्रत्यर्थी / Respondent

Revenue by : Shri S. P. Walimbe  
Assessee by : Smt. Deepa Khare

सुनवाई की तारीख / Date of Hearing : 02.11.2021  
घोषणा की तारीख / Date of Pronouncement : 02.11.2021

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the Revenue directed against the order of the Learned Commissioner of Income Tax (Appeals)- 2, Kolhapur ('CIT(A)' for short) dated 21.09.2018 for the assessment year 2015-16 in deleting the penalty u/s 271(1)(c) of the Income Tax Act, 1961 ('the Act').

2. The Revenue raised the following grounds of appeal :-

- “1. On the facts and circumstances of the case and in law, the CIT(A) has erred in deleting the penalty of Rs.64,81,150/-, where the assessee has accepted all the addition made by the AO on which the penalty is levied.
2. On the facts and circumstances of the case and in law, the CIT(A) has erred in deleting the penalty of Rs.64,81,150/-, where the assessee has filled inaccurate particulars of income and not filed appeal on the all additions.
3. The appellant prays that the order of the Ld. CIT(A) be vacated and that of the Assessing Officer's order may be restored.”

3. Brief facts of the case are as under :-

The respondent-assessee is a Co-operative Bank engaged in the business of providing land mortgage/development loans. The return of income for the assessment year 2015-16 was filed electronically on 29.09.2015 declaring a loss of Rs.2,54,38,883/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-2(3), Kolhapur (‘the Assessing Officer’) vide order dated 31.10.2017 passed u/s 143(3) of the Act at a loss of Rs.57,87,730/-. While doing so, the Assessing Officer made the following additions :-

(i)	<i>Audit Fees u/s 43B</i>	<i>Rs.3,27,838/-</i>
(ii)	<i>NPA Loan Reserve Fund u/s 36(1)(viiia)</i>	<i>Rs.14,61,060/-</i>
(iii)	<i>Interest on NPA Loan Reserve Fund u/s 37</i>	<i>Rs.5,84,488/-</i>
(iv)	<i>Pending Interest on NPA Loan Reserve Fund</i>	<i>Rs.1,72,77,770/-</i>

4. The respondent-assessee had not contested the above additions in appeal. The Assessing Officer also initiated penalty proceedings by issuing show-cause notice u/s 274 r.w.s. 271(1)(c) of the Act by alleging that the respondent-assessee furnished inaccurate particulars of income. In response to the show-cause notice, it was explained that mere disallowance of claim made by the assessee does not amount to furnishing inaccurate particulars of income and mere disallowance of claim does not entail levy of penalty placing reliance on the decision of the Hon’ble Supreme Court in the case of CIT vs. Reliance Petro Product Pvt. Ltd., 322 ITR 158 (SC). The Assessing Officer rejected the above explanation and levied penalty of Rs.64,81,153/- u/s 271(1)(c) of the Act vide order dated 27.04.2018.

5. Being aggrieved, an appeal was preferred before the ld. CIT(A), who vide impugned order deleted the penalty by holding that mere addition in the

assessment does not entail a levy of penalty and also gave a finding that additions made by the Assessing Officer are based on very information contained in the Balance Sheet which does not tantamount to furnishing inaccurate particulars of income.

6. Being aggrieved by the above order of the ld. CIT(A), the Revenue is in appeal before us.

7. The ld. Sr. DR submits that the ld. CIT(A) ought to have confirmed the levy of penalty u/s 271(1)(c) of the Act, inasmuch as, the assessee is guilty for furnishing of inaccurate particulars of income and the ratio of the decision of the Hon'ble Supreme Court in the case of Reliance Petro Product Pvt. Ltd. (supra) cannot be applied to the facts of the present case.

8. On the other hand, ld. Counsel for the respondent-assessee, Smt. Deepa Khare relied on the order of the ld. CIT(A).

9. We heard the rival submissions and perused the material on record. The only issue in the present appeal relates to the levy of penalty u/s 271(1)(c) of the Act. In the assessment proceedings, the Assessing Officer made the following additions :-

(i)	<i>Audit Fees u/s 43B</i>	<i>Rs.3,27,838/-</i>
(ii)	<i>NPA Loan Reserve Fund u/s 36(1)(viii)</i>	<i>Rs.14,61,060/-</i>
(iii)	<i>Interest on NPA Loan Reserve Fund u/s 37</i>	<i>Rs.5,84,488/-</i>
(iv)	<i>Pending Interest on NPA Loan Reserve Fund</i>	<i>Rs.1,72,77,770/-</i>

10. On perusal of the assessment order, it was clearly suggest that the additions were made by the Assessing Officer solely based on the information contained in the Balance Sheet furnished by the respondent-assessee. There

is no finding by the Assessing Officer as to what inaccurate particulars of income were furnished by the assessee leading to the above additions. This would clearly show that the assessee is not guilty of furnishing of inaccurate particulars of income. Furthermore, mere disallowance of claim does not attract levy of penalty as mere making of claim which is not sustainable in law as held by the Hon'ble Apex Court in the case of Reliance Petro Product Pvt. Ltd. (supra). The order of the ld. CIT(A) is based on the proper appreciation of facts and law. We do not find any illegality in the order of the ld. CIT(A) in deleting the penalty u/s 271(1)(c) of the Act. In the above circumstances, we do not find any merit in the appeal preferred by the Revenue.

11. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on this 02<sup>nd</sup> day of November, 2021.

**Sd/-**

**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**

**Sd/-**

**(INTURI RAMA RAO)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 02<sup>nd</sup> November, 2021.

Sujeet

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Kolhapur.
4. The Pr. CIT-2, Kolhapur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.