

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
 AND
 SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

I.T.A. No. 9386/DEL/2019 (A.Y. 2011-12)

ACIT, Rohtak Circle, Rohtak. Haryana. (APPELLANT)	Vs.	Gurgaon Gramin Bank, [Now Sarva Haryana Gramin Bank, H.O. Near Bajrang Bhawan, Delhi Road, Rohtak, Haryana. PAN No. AAAAG5681L (RESPONDENT)
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Assessee by :	Shri Naveen Kumar Goyal, C. A.;
Department by:	Md. Gayasuddin Ansari, Sr. D. R.;

Date of Hearing	20.07.2022
Date of Pronouncement	02.08.2022

ORDER

PER YOGESH KUMAR US, JM

This appeal is filed by the Revenue for assessment year 2011-12 against the order of the Id. Commissioner of Income Tax (Appeals), Rohtak, dated 30.09.2019.

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

“1. On the facts and in the circumstances of the case the ld. CIT (A) has erred in law in deleting ground of appeal related to addition of Rs.13,90,612/- on account of expenditure of Rs.13,90,612/- which was paid/credited in F.Y. 2010-11, but was accrued/became due during F.Y. 2009-10. The fact is that the assessee is following a mercantile system of accounting, so the expenditure of interest must have been crystallized in previous year in which it was incurred and not in the year of actual payment.”

2. This case falls in the exceptions laid down in the CBDT Instruction No. 17/2019 read with Circular No. 03/2018 for further filing of appeal.”

3. The present Appeal filed by the Revenue as against the deletion of addition of Rs. 13,90,612/- by the CIT(A). Thought the figure is below the tax effect as per the CBDT Circular, as per the grounds of Appeal No. 2, the present case falls within the exception laid down by the CBDT (Audit Objection). Therefore, the present Appeal requires to be decided on merit.

3. Brief facts of the case are that, the assessee has filed its income for Assessment Year 2011-12 declaring total income at Rs. 1,06,69,74,349/-. The assessee being a regional rural established under RRBs Act, 1976, during the year under consideration engaged in the business of providing banking services. The case of the assessee was selected under CASS scrutiny and an assessment u/s 143(3) of the Act was completed at an assessed income of Rs. 1,07,59,71,080/-. The case of the assessee was reopened u/s 148 of the Act. As per the AIR Information, the assessee has made a deduction of the expenditure of Rs. 13,90,612/- which was paid/credited in Financial Year 2010-11, but was accrued/became due during Financial Year 2009-10. The

assessment order came to be passed on 25/02/2104 by making an addition of Rs. 13,90,612/- on the ground that the assessee was following the merchandise system of accounting and the expenditure of interest must be crystallized on the previous year in which it was accrued and not in the year of actual payment.

4. As against the assessment order dated 25/02/2104, the assessee has preferred an Appeal before the CIT(A). The Ld.CIT(A) vide order 30/09/2019, allowed the Appeal and deleted the addition made by the Ld. A.O.

5. Aggrieved by the order dated 30/09/2019, the Revenue has preferred the present Appeal on the grounds mentioned above.

6. The Ld. DR submitted that the Ld.CIT(A) has erred in deleting the addition of Rs. 13,90,612/- which was paid in Financial Year 2010, but was accrued /became due during Financial Year 2010. The fact is that the assessee is following the merchandise system of account, so the expenditure of income must have been crystallized in the previous year in which it was accrued and not in the year of actual payment, therefore, sought for interference by the Tribunal.

7. Per contra, the Ld. Counsel for the assessee submitted that, the assessee was managing regular books of accounts which has been duly provided to the A.O. The Ld. A.O has not disputed or declared the expenditure as bogus per se, but found untenable. Apart from the same, the assessee has already paid more tax in the Financial Year 2009-10 in the tax bracket of 30-1. Therefore, submitted that, there is no loss to the Revenue in deleting the addition made by the Ld. A.O.

8. We have heard the parties, perused the material on record and gave our thoughtful consideration. It emerges from the material on record that, the assessee was maintaining books of accounts which being duly audited by expert, i.e. Chartered Accountant. The report of the chartered accountant has been furnished before the A.O. At the time of assessment proceedings, the Assessing Officer has disallowed the expenditure only on the ground that, it has been claimed as prior period expenditure although the assessee was following the merchandise system of the accounting. On the contrary, the A.O has not of the opinion that the expenditure itself is bogus per se. The expenditure has been incurred for the business and it is not the case of the A.O that, it is not allowable u/s 37 (1) of the Act. Since, the assessee has already paid more tax in Financial Year 2009-10, which is in the tax bracket of 30% and the claim is revenue neutral, i.e. that is there is no loss of Revenue. While deleting the addition made by the A.O, Ld.CIT(A) has also considered all the above facts. Therefore, we do not find any reason to interfere with the finding of the facts by the CIT(A) and also the conclusion arrived by the Ld.CIT(A). Therefore, the order of Ld. CIT(A) which requires no interference. Accordingly, we inclined to dismiss the Revenue's Grounds of Appeal.

9. In the result, the Appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 02nd August, 2022

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Dated : 02/08/2022

*R.N*SR. PS

Copy forwarded to :

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

ASSISTANT REGISTRAR
ITAT NEW DELHI.