

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1427/PUN/2018

निर्धारण वर्ष / Assessment Year : 2013-14

ACIT, Circle-2, Kolhapur (Appellant)	Vs.	Kolhapur District Central Co.op. Bank Ltd., 1092, E- Ward, Sahahupuri, Dist.Kolhapur-416001 PAN : AAAAK1037G
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आयकर अपील सं. / ITA No.429/PUN/2020

निर्धारण वर्ष / Assessment Year : 2013-14

Kolhapur District Central Co.op. Bank Ltd., 1092, E- Ward, Sahahupuri, Dist.Kolhapur-416001 PAN : AAAAK1037G	Vs.	ITO, Ward-2(3), Kolhapur (Respondent)
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Assessee by Shri Pranjal S. Phadnis
Revenue by Shri Sardar Singh Meena
Date of hearing 10-08-2022
Date of pronouncement 11-08-2022

आदेश / ORDER

PER R.S. SYAL, VP :

These two cross appeals – one by the Revenue and the other by the assessee - arise out of the order passed by the CIT(A)-2, Kolhapur on 01-06-2018 in relation to the assessment year 2013-14.

2. There is a delay of 649 days in filing the appeal by the assessee. An affidavit has been filed stating the reasons for the

delay. We are satisfied with the reasons so stated. Therefore, we condone the delay and admit the appeal for disposal on merits.

3. The only issue raised by the assessee in its appeal is against the confirmation of disallowance of Rs.7,43,550/- received by assessee as nominal membership fee.

4. Briefly stated, the facts of the case are that the assessee is a co-operative bank. A sum of Rs.7,43,550/- was received by it, which was credited to Reserve Fund account. On being called upon to explain as to why it was not offered for taxation, the assessee submitted that it was in the nature of entry fee and nominal membership fee recovered from shareholder-members. The Assessing Officer (AO) held such amount to be revenue in nature on the ground that the nominal members were losing their identity at the end of the year with the entry fees remaining in the coffers of the assessee. The Id. CIT(A) upheld the addition. Aggrieved thereby, the assessee has approached the Tribunal.

5. We have heard both the sides and gone through the relevant material on record. At the outset, the Id. AR placed on record a copy of the order dated 09-05-2019 passed by the Tribunal in *Shri Rukmini Sahakari Bank Ltd. Vs. ACIT* (in ITA No.84/PUN/2017) in which similar issue has been restored to the file of the AO for

examining the same in the light of nominal members having capital adequacy vide Circular sated 01-08-2009 issued by RBI and extract of that assessee's bye-laws. The Id. AR fairly submitted that the facts and circumstances of the assessee's ground are similar. In view of the order passed by the Tribunal on similar issue in identical circumstances, we set-aside the impugned order and remit the matter to the file of the AO for deciding this issue afresh in conformity with the directions given in the aforementioned Tribunal order.

6. The only effective ground raised by the Revenue in its appeal is against deletion of addition of Rs.9,74,26,133/-, being, overdue interest on NPAs.

7. The facts apropos this issue are that the assessee debited overdue interest of Rs.9.74 crore in its Profit and loss account. It was explained that the provision for the overdue interest was made as per the guidelines of the RBI. The AO made the disallowance. When the matter came up for consideration in the first appeal, the Id. CIT(A) observed that it was in the nature of interest on NPAs account credited by the assessee. Relying on certain Tribunal orders, the Id. CIT(A) deleted the addition,

against which the Revenue has come up in appeal before the Tribunal.

8. Having heard both the sides and gone through the relevant material on record, it is seen that the only issue raised by the Revenue is against the non-taxability of interest on NPAs and not the disallowance of overdue interest. The Tribunal, in its order in *Dapoli Urban Cooperative Bank*, as taken note of in para 5.2 of the impugned order, has held that interest on NPAs cannot be assessed as income, unless the amount is actually received. In our considered opinion, there is no infirmity in the impugned order following such an order. We, therefore, countenance the same.

9. In the result, the appeal of the assessee is allowed for statistical purposes and that of the Revenue is dismissed.

Order pronounced in the Open Court on 11th August, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 11th August, 2022

Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-2, Kolhapur
4. The Pr.CIT-2, Kolhapur
विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
5. DR 'B', ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,**// True Copy //**

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

		Date	
1.	Draft dictated on	10-08-2022	Sr.PS
2.	Draft placed before author	10-08-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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