

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES,"SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 283/JP/2021
निर्धारण वर्ष/Assessment Year : 2019-20

Sawai Madhopur Urban Cooperative Bank Ltd. Station Road, Bajariya, Swaimadhopur	बनाम Vs.	The Addl/JDIT (I&CI) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AADTS 9572 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Rajeev Sogani, CA &
Ms. Shivangi Sogani, CA
राजस्व की ओर से / Revenue by: Smt. Manisha Choudhary, JCIT

सुनवाई की तारीख / Date of Hearing : 25/08/2022
उदघोषणा की तारीख / Date of Pronouncement: 01 /09/2022

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 29-09-2021, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2019-20 wherein the assessee has raised the following ground of appeal.

“1. In the facts and circumstances of the case and in law, the ld. CIT(A) has erred in confirming the action of the AO of imposition of penalty u/s 271FA amounting to Rs.1,43,000/-

because of delay in filing of Form SFT as per Section 285 BFA of the I.T. Act, 1961. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the penalty of Rs.1,43,000/-

2. In the facts and circumstances of the case and in law, the ld. CIT(A) has erred in ignoring the fact that assessee had a reasonable cause for the delay in filing FORM SFT and, therefore, penalty was not imposable as per provisions of Section 273B. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the penalty of Rs.1,43,000/-

2.1 During the course of hearing, the Bench noted that the assessee has raised two grounds which are interrelated and relates to challenging the order of the ld. CIT(A) in confirming the action of AO in imposing the penalty u/s 271FA of the Income Tax Act, 1961. Therefore, the Bench has decided to dispose off these grounds of appeal through a common order.

2.2 The ld. AR appearing on behalf of the assessee reiterated the same arguments as were raised by him before the ld. CIT(A) and the same are contained in para 4 of the order of the ld. CIT(A) which is reproduced below.

“4. A Notice u/s 250 of the IT Act dated 06.09.2021 to be complied by 13.09.2021 to which the assessee has submitted reply on 27.09.2021.

We are kindly informing you that that 'Sawai Madhopur Urban Cooperative Bank Limited is an Urban Bank engaged in borrowing and lending business Under the provisions of Section 285BA of the Act, every person who is an assessee or other categories enumerated there and responsible for registering or responsible for registering, or, maintaining books of account or other document containing a record of any specified financial transaction, under any law for the time being in force, shall furnish an annual information return, in respect of such specified financial

transaction which is registered or recorded by him during any financial year beginning on or after the 1st day of April, 2004 and information relating to which is relevant and required for the purposes of this Act, to the prescribed income-tax or authority or agency

Sawai Madhopur Urban Cooperative Bank Limited an assessee falling within the ambit of Section 285BA failed to comply with this legal requirement for the period of 2018-19. A notice dated 20.12.2019 was issued by the AO, which has been received on dated 30.12.2019, The assessee complied with the requirement of Section 285BA by filing the annual information return SFT-003 on dated 12.02.2020, SFT-004 on dated 18.02.2020, SFT-005 on dated 20.02.2020 and the same was accepted and the assessment was concluded. However, subsequently the ADDL/JDIT (Intelligence and Criminal investigation), Jaipur served penalty order dated 20.10.2020 levying penalty of Rs.1,43,000/- for the delay of 264 days in furnishing AIR in respect of AY 2019-20.”

2.3 On the contrary, the DR relied on the orders passed by the Revenue authorities.

2.4 After hearing both the parties and perusing the materials available on record, the Bench noted that the assessee falling within the ambit of Section 285BA failed to comply with legal requirement for the period of A.Y. 2018-19. Therefore, a notice was served upon the assessee and after considering the reply from the assessee, penalty u/s 271FA amounting to Rs.1.43 lacs was imposed by the AO for delay of 264 days in furnishing Statement of Financial Transaction (SFT) or such reportable account in sub-section 1 of Section 285BA of the Income Tax Act by the assessee. However, the Id. AR of the assessee submitted before us that the assessee bank has sent documents for filing of SFT for the year under

consideration to the consultant but due to mis-communication the consultant has not filed the report in time. It was also submitted that during the financial year, the management of bank has also changed and, therefore, the assessee bank was not aware about the compliance of the said requirement. It was further submitted that although the management of the Bank had come to know about this compliance yet they have taken action immediately and filed the SFT report after coming to know regarding this lapse. It was also submitted by the Id. AR that the assessee bank is a very small size of bank and located in semi urban area and they have no qualified and trained staff for compliance of legal aspects. The Id. AR further submitted that the assessee bank has responded to income tax notice for non-compliance of AIR and the Bank has also appointed a Chartered Accountant for such assignment and such CA has filed the annual information return SFT-003 on 12-02-2020, SFT-004 on 18-02-2020, SFT-005 on 20-02-2020 which were accepted by the Department. Since, there is no mala fide intention on the part of the assessee bank to hide the information, therefore, no penalty was called for under such circumstances. The Bench after meticulously going through the facts of the case finds that the assessee bank i.e. Sawaimadhapur Urban Cooperative Bank Ltd. is an urban bank which is engaged in borrowing and lending business. It is pertinent to mention that under the provisions of Section 285BA, every person who is an assessee or other categories enumerated there and responsible for registering or responsible for

registering or maintaining books of account or other documents containing a record of any specified financial transaction, under any law for the time being in force, shall furnish an annual information return in respect of such specified financial transaction which is registered or recorded by him during any financial year beginning on or after the 1st day of April, 2004 and information relating to which is relevant and required for the purpose of this Act, to the prescribed income tax or authority or agency. In case any person fails to comply with statutory obligation then in that eventuality the provisions of Section 271FA are attracted and the provisions of Section 271FA is reproduced herein below

As per provisions of sec. 271FA of the I.T. Act, 1961:- "if a person who is required to furnish a statement of financial transaction or reportable account under sub section (1) of section 285BA, fails to furnish such statement within the time prescribed under sub section (2) thereof, the income tax authority prescribed under said sub section (1) may direct that such person shall pay, by way of penalty, a sum of five hundred rupees for every day during which such failure continues.

Provided that where such persons fails to furnish the statement within the period specified in the notice issued under sub-section (5) of section 285BA, he shall pay, by way of penalty, a sum of one thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the statement expires"

Thus after going through the co-joint reading of Section 285BA and Section 271FA of the Income Tax Act, we are of the view that it was a statutory obligation on the part of the assessee to furnish AIR as has been specified in Section 285BA of the Act. However, the assessee bank i.e. Sawaimadhapur Urban Cooperative Bank Ltd falling within the ambit of Section 285BA of the Act failed to comply with the legal requirements for the period 2018-19. A Notice dated 20-12-2019 was issued by the AO which was received by the assessee on 30-12-2019 and the assessee complied with the requirement of Section 285BA of the Act by filing the Annual Information Return SFT-003 on 12-02-2020, SFT-004 on 18-02-2020, SFT-005 on 20-02-2020. However, while doing so, there was delay of 264 days in furnishing the AIR for the period under consideration. Since it was a statutory obligation on the part of the assessee bank to furnish AIR as a specified instruction u/s 285BA, therefore, any argument of the assessee with regard to ignorance of law or adopting casual and cavalier attitude is of no help to the assessee. Therefore, we find that the Id. CIT(A) has passed the well reasoned order by holding that the assessee bank has not given any reasonable cause of statutory non-compliance of filing of SFT within due time. Therefore, we find no reason to interfere with the order of the Id. CIT(A) which is sustained. Thus the appeal of the assessee is dismissed with no order as to costs.

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

Order pronounced in the open court on 01/09/2022

Sd/-
(संदीप गोसाईं)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 01/09/2022

*Mishra

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Swaimadhapur Urbank Cooperative Bank Ltd., Swaimadhapur
2. प्रत्यर्थी / The Respondent- The Addl./JDIT (I&CI), Jaipur
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No.283/JP/2021)

आदेशानुसार / By order,

Asstt. Registrar