

आयकर अपीलीय अधिकरण, PATNA पीठ, कोलकाता
**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH**

आभासी माध्यम से सुनवाई
Hearing Through Virtual Medium
At ITAT, Kolkata

समक्ष : श्री मनीष बोरड, लेखा एवं
श्री संजय शर्मा न्यायिक सदस्य

**Before: Shri Manish Borad, Accountant Member and
Shri Sonjoy Sarma, Judicial Member**

आयकर अपील सं.य/ ITA No. 52/Pat/18 Assessment Year: 2012-13		
Uttar Bihar Gramin Bank Sharma Complex, Kalambagh, Chowk, Poraman, Muzaffarpur PAN: AAJU0238J (APPELLANT)	<u>बनाम</u> V/s.	DCIT, Circle-2(1), Muzaffarpur (RESPONDENT)

And

आयकर अपील सं.य/ ITA No.173/Pat/19 Assessment Year: 2009-10		
ACIT, Circle-2(1), Muzaffarpur Circle-2(1), Bela Kothi, 3 rd Fl., R.K. Ashram Road, Muzaffarpur-842005	<u>बनाम</u> V/s.	Uttar Bihar Gramin Bank Sharma Complex, Kalambagh, howk, Poraman, Muzaffarpur PAN: AAJU0238J (APPELLANT)
अपीलार्थी की ओर से/By Appellant	Shri Sanjeev Kr. Anwar, Advocate,	

1.

	Ld.AR
प्रत्यर्थी की ओर से/By Respondent	Shri Sanjay Mukherjee, Ld. CIT/DT
सुनवाई की तारीख/Date of Hearing	13-10-2022
घोषणा की तारीख/ Date of Pronouncement	29 -12 -2022

आदेश / O R D E R

PER MANISH BORAD, AM.

Both the captioned appeals of the assessee and the revenue for the assessment years 2012-13 and 2009-10 are directed against the separate order dt. 03.01.2018/14.03.2019 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter, referred to as 'the Act'] by the Id. Commissioner of Income-tax, Appeals [in short, hereafter referred to as 'the 'Id. CIT(A), Jamshedpur.

2. The assessee has raised following grounds of appeal for the AY 2012-13:

- (1) *For that the orders of the authorities below are bad in law and fact.*
- (2) *For that the learned CIT (Appeals) had issued a notice dt. 18/12/2017 against which adjournment petition was sent through email on 7/12/2017 and specific prayer was made for oral hearing but the same not even acknowledged.*
- (3) *For that a confirmatory copy at the adjournment petition was also sent through registered post, on 29/12/2017. i.e. before the date of passing of the order, but even this communication was not acknowledged.*
- (4) *For that the ex-parte order, therefore, is unjustified and the addition confirmed is liable to be set aside.*

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(5) For that the learned assessing officer has grossly erred in making disallowance of Rs. 8,41,31,263/- claimed as expenditure under the head amortization of Government Securities.

(6) For that expenditure under the head amortization of Government Securities has been claimed as per prudential norms of the RBI and the premium amortized has been claimed to be in respect of securities held under the category 'held to maturity' and as such the expenditure is fully allowable.

(7) For that there is specific Board Instruction No. 17 of 2008 dt. 26/11/2008, which specifies that the premium paid on Government Securities is required to be amortized over the period remaining to maturity. It may kindly be noted that the CBDT instructions are binding on I.T. Authorities. The learned CIT (A) is not justified instating that the guidelines would not apply to RRB.

(8) For that the various Benches of ITAT have allowed the amortization of Government Securities as allowable expenditure and therefore the expenditure should also have been allowed in the case of appellants as well.

(9) For that in appellants own case, in subsequent year, the amortization of Government Securities has been accepted as allowable expenditure and as such, the CIT (Appeals) has grossly erred in confirming the addition in the assessment year under consideration.

(10) For that other grounds, if any, will be urged at the time at hearing.

3. The Revenue has raised following grounds of appeal for the AY 2009-10:

1. The Ld. CIT(A) has erred in law and fact in deleting the addition of Rs.5,19,29,971/- made by the AO under the head Amortization of PREMIUM on Government Securities by quoting Instruction no.17 of 2008 dt.26.11.2008 of CBDT, which although based on RBI guidelines dt.16th Oct., 2000, was applicable for Commercial Banks excluding (RRB and LAN) and the assessee bank being a RRB, the instruction is not applicable in this case.

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2. *The Id. CIT(A) has erred in law and fact In deleting the addition of Rs. 50,00,000/- made by the AO towards Provisions made for Performing Assets by holding that the provision made in performing assets was allowable contrary to the fact that the provision of section 36(1)(viii) of the Income-tax Act, 1961 relates to Bad & Doubtful debts.*

3 *The Ld. CIT(A) has erred In law and fact In deleting the addition of Rs.60,00,000/- out of total addition of Rs.1,10,00,000/- without any basis by holding it to be a general phenomena taking place in rural banks.*

4. *Any other ground, if any will be taken during the appellate proceedings.*

4. From perusal of the above grounds, we find that the issues raised by both the assessee and revenue are common except for change of figures and year. In the revenue's appeal for the A.Y 2009-10, the Id. CIT(A) deleted the addition(s) made by the Id. AO whereas for the AY 2012-13 the order of the Id. CIT(A) is *ex parte*. Though the assessee has filed certain details for AY 2009-10, but for the AY 2012-13 the prayer is that the assessee failed to get fair opportunity to plead its case.

5. Therefore, under the given facts and circumstances of the case, since the order of the Id. CIT(A) is *ex parte* for the AY 2012-13, and the issues raised in the revenue's appeal for the AY 2009-10 are common to that of AY 2012-13, we in the interest of justice and being fair to both the parties remit all the issues raised in both the appeals to the Id. CIT(A) for afresh adjudication and to pass a speaking order after considering the submissions/details to file by the assessee on being provided sufficient

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opportunity of being heard. We also direct the assessee to comply with notice of hearing and should not take adjournment unless otherwise required for reasonable cause. Thus, all the grounds raised in both the appeals by revenue and assessee for the AYs. 2009-10 and 2012-13 are allowed for statistical purpose.

6. In the result, the appeal of revenue for AY 2009-10 and that of assessee for AY 2012-13 are allowed for statistical purpose.

देश खुले न्यायपीठ में दिनांक 29/12/2022 को उद्घोषित।
The order pronounced in the open Court on 29 -12-2022

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Dated :29 -12-2022

**PP/SPS

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1.अपीलार्थी/Appellant/: **Uttar Bihar Gramin Bank**

Sharma Complex, Kalambagh, Chowk, Poraman, Muzzaffarpur
PAN: AAAJU0238J.

2. प्रत्यर्थी/Respondent/: **DCIT.ACIT, Circle-2(1), Muzzaffarpur
ITO (Exemptions), Ward-1, Patna**

3. संबंधित आयकर आयुक्त / Concerned CIT

4. आयकर आयुक्त- अपील / CIT (A)

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT,
Patna

6.गार्डफाइल/Guardfile.

By order/आदेश से, /True Copy/

Assistant Registrar
ITAT, Kolkata

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