

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.676/DEL/2023
Assessment Year 2015-16

DCIT Circle-Rohtak Haryana	Vs.	Sarva Haryana Gramin Bank Delhi Road, Rohtak Haryana.
TAN/PAN: AAKAS1464M		
(Appellant)		(Respondent)

Appellant by:	Shri Vivek Gupta, Adv.		
Respondent by:	Shri Anuj Garg, Sr.DR		
Date of hearing:	22	08	2023
Date of pronouncement:	22	08	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ('CIT(A)' in short) dated 09.01.2023 arising from the penalty order dated 28.03.2022 passed by the Assessing Officer (AO) under Section 271(1)(c) of the Income Tax Act, 1961 (the Act) concerning AY 2015-16.

2. As per the grounds of appeal, the Revenue has challenged the reversal of penalty of Rs.1,79,17,819/- by the CIT(A) imposed under Section 271(1)(c) of the Act by the Assessing Officer.

3. When the matter was called for hearing, the Id. counsel in the Revenue's appeal pointed out that impugned penalty under Section 271(1)(c) arises from (i) disallowance of Rs.2,31,17,869/- under Section 14A read with Rule 8D of the Income Tax Rules; (ii) disallowance of deduction of Rs.2,33,02,768/- in respect of amortization of premium paid at the time of purchase of securities over the remaining period of securities (iii) disallowance of Rs.57,21,000/- on account of loss on sale of obsolete stationery and other petty items.

4. The Id. counsel adverted to the decision of the Co-ordinate Bench in the quantum proceedings in assessee's own case for the Assessment Year 2015-16 in ITA No.1984/Del/2019 order dated 19.10.2022 in question and submitted that first two issues have been adjudicated in favour of the assessee and the quantum addition itself has been deleted. As regards third issue towards disallowance of loss claimed on sale of obsolete stationery and other petty items, the Id. counsel submitted that the ITAT has observed that the documentary evidences have been placed to support the *bona fides* of the claim but however the ITAT remitted the matter in the quantum proceedings to the file of the Assessing Officer to take cognizance of the documentary evidences. On merits, the Id. counsel submitted that the claim towards loss on account of obsolete stationery arises owing to the fact that erstwhile Gurgaon Gramin Bank and erstwhile Haryana Gramin Bank were amalgamated into single bank namely, the assessee herein. As a consequence, the printed stationery in the name of erstwhile bank became obsolete and the management of the bank decided to dispose of such unusable

stock of stationary and the resultant losses were booked in the ordinary course of business. Under the circumstances, it was pleaded that imposition of penalty under Section 271(1)(c) is highly unjustified and undeserving.

5. As pointed out on behalf of the assessee, the imposition of penalty flows from the additions/disallowances as listed in the preceding paragraph. Two of such disallowances/additions stood deleted in the quantum proceedings and therefore, the very basis for imposition of penalty does not survive any more. The consequential penalty under Section 271(1)(c) thus automatically cease to survive. As regards the third item of disallowance on account of obsolete stationery etc., we firstly notice that the assessee is a rural bank run by the professional management. Simultaneously, we also take note of the fact that the amalgamation has taken place resulting in the stationery becoming unusable and obsolete. In the wake of such facts coupled with the fact that the documentary evidences were placed in the quantum proceedings as noted by the Co-ordinate Bench, we find that the *bona fides* of the losses claimed are sufficiently proved. The onus that lay upon the assessee has been primarily discharged on the parameters of penalty proceedings. Without prejudice, it is well settled that a mere wrong claim by itself will not, *ipso facto*, invite imposition of penalty under Section 271(1)(c) where the *bona fides* of the action of the assessee are beyond reasonable doubt.

6. In the totality of circumstances, we find merit in the plea of the assessee for exoneration from the clutches of penalty

under Section 271(1)(c) of the Act.

7. We thus endorse the action of the CIT(A) and decline to interfere therewith.

8. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 22/08/2023

Sd/-

**[SAKTIJIT DEY]
VICE PRESIDENT**

DATED: **/08/2023**

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**