

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

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER  
AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.1169/PUN/2023  
A.Y. 2016-17**

The Pandharpur Urban Co-op. Bank Ltd.,  
Head Office Navi Peth, Navipeth,  
Pandharpur – 413304

PAN: AAAJT0155H

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Asst. Commissioner of Income Tax,  
Central Circle, Kolhapur

.....प्रत्यर्थी / Respondent

Assessee by : None  
Revenue by : None

सुनवाई की तारीख / Date of Hearing : 11-03-2024

घोषणा की तारीख / Date of Pronouncement : 12-03-2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of Ld. Commissioner of Income Tax (Appeal), Pune-11 dated 13.09.2023 confirming the levy of penalty u/s 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Year 2016-17..

2. Briefly, the facts of the case are as under:

The appellant is a co-operative bank engaged in the business of banking. The income for the assessment year 2016-17 was filed on 20.03.2017 declaring total income of Rs.16,64,80,130/-. Subsequently,

search and seizure operations u/s. 132 of the Income Tax Act, 1961 (in short 'the Act') were conducted in the business premises of the appellant on 25.11.2016. Against the said return of income, assessment was completed by the Assessing Officer (AO) vide order dated 24.12.2018 u/s. 153A(b) r.w.s. 143(3) of the Act disallowing the excess claim u/s. 36(1)(viii) of the Act of Rs.1,12,55,382/- by holding that the appellant claimed deduction u/s. 36(1)(viii) at 20% of the gross receipts of interest income from the eligible business, instead of 20% of the net profits of the eligible business, also initiated penalty proceedings u/s 271(1)(c) of the Act by alleging that the appellant furnished inaccurate particulars of income. A show cause notice u/s.274 r.w.s.271(1)(c) was issued. In response to the show cause notice, it was submitted that the excess claim was made on account of bonafide and inadvertent mistake. However, rejecting the explanation of the assessee, the AO had levied penalty of Rs.38,95,262/- u/s 271(1)(c) of the Act vide order dated 27.06.2019.

3. Being aggrieved by the above order, an appeal was filed before the CIT(A), who vide impugned order confirmed the levy of penalty, against which the assessee filed the present appeal before us.

4. When the appeal was called on, none appeared from both the sides. We have carefully perused the material available on record. The issue in the present appeal is, whether or not the AO was justified in levying the penalty of Rs.38,95,262/- u/s 271(1)(c) of the Act on account of addition made for excess claim of deduction u/s 36(1)(viii). On mere perusal of the assessment order, it would suggest that the AO made addition on account of excess claim on account of mistakes in calculation of the quantum of deduction u/s 36(1)(viii) of the Act. The mistake was accepted by the

appellant as an inadvertent mistake. The AO had failed to bring on record which particulars of income furnished by the assessee are found to be false or incorrect leading to the above addition. On mere perusal of the assessment order, it is evident that the AO quantified the correct amount of admissible deduction u/s 36(1)(viii) based on the particulars furnished by the assessee only. Therefore, in our considered opinion, the appellant cannot be held to be guilty of furnishing inaccurate particulars of income, therefore it is not a fit case for levy of penalty. Accordingly, we direct the AO to delete the penalty of Rs.38,95,262/-. Thus, the appeal of assessee stands allowed.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 12<sup>th</sup> March, 2024.

Sd/-  
**S.S. GODARA**  
**JUDICIAL MEMBER**

Sd/-  
**INTURI RAMA RAO**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 12<sup>th</sup> March, 2024  
GCVSR/Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A), Pune-11
4. The Pr.CIT-4, Pune  
विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" / DR 'B',
5. ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune