

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.813/Ahd/2023
Assessment Year: 2019-20**

The Waghodia Urban Co. Op. Bank Limited, Near Old Bus Stand, Waghodia, Vadodara - 391 760 (Gujarat) [PAN – AAAAT 7081 P] (Appellant)	Vs.	The Director of Income Tax (I & CI), Ahmedabad. (Respondent)
Assessee by	Shri Samir Parikh, AR	
Revenue by	Shri Sanjay Jain, Sr. DR	
Date of Hearing	10.04.2024	
Date of Pronouncement	17.04.2024	

ORDER

This appeal is filed by the assessee against order dated 27.07.2023 passed by the Addl/JDIT (I&CI), Ahmedabad for the Assessment Year 2019-20.

2. The assessee has raised the following grounds of appeal :-

“1. The Director of Income Tax (I&CI) is not correct in levy penalty of Rs.7,40,000/- under Section 271FA of the Income Tax Act, 1961

2. Penalty levied under Section 271FA of the Act be deleted.”

3. The Waghodia Urban Co-op. Bank Limited [hereinafter referred as Reporting Entity (RE)] had not filed statement of financial transaction (i.e. SFT 005) for Assessment Year (A.Y.) 2019-20 till the due date i.e. 31.05.2019. The reporting entity is required to file SFT-005 for all reportable transactions. Subsequently, the notice under Section 285BA(5) of the Income Tax Act, 1961 was issued on 26.04.2022 requesting the assessee to file the SFT-001 and SFT-005 on or before 11.05.2022. The Assessing Officer observed that the Reporting Entity filed SFT-001 and SFT-005 on 29.11.2022 thereby showing nil transaction and specific financial transaction which was not reported within the due date i.e.

31.05.2019. Hence, a notice under Section 274 read with section 271FA of the Act was issued on 13.01.2023 to the assessee. In response to the notices, the assessee i.e. the Reporting Entity submitted that at the time of filing of SFT return, data was generated given by system but SFT-005 data was not generated, so the Reporting Entity could not file SFT-005 return. After taking cognisance of the assessee's submissions, the Assessing Officer levied penalty under Section 271FA amounting to Rs.5,38,000/- and Rs.2,02,000/- for this specified period totalling to Rs.7,40,000/-

4. Being aggrieved by the penalty order passed under Section 271FA of the Act, the assessee filed appeal before the us

5. The Ld. AR submitted that the assessee is a Co-op. Bank engaged in the business of banking sector. The assessee accepted and repaid the deposits from its six members as per the provisions of Reserve Bank of India. The assessee is required to file SFT return prescribed under Section 285BA of the Act but due to the Server issue, the assessee filed the SFT-005 belatedly and not within the due date. The Ld. AR prayed that though there is a delay in filing SFT-005, the reason was that the details were not generated due to the technical difficulties of server and, therefore, the data was not generated. Since the data was not available till November 2022 the assessee once recovered the data and immediately filed the SFT-004 details/return. Therefore, the Ld. AR submitted that there was no negligence or any bad intention on the part of the assessee for not filing the SFT-004 before the due date. Therefore, the levy of penalty in fact still impact adversely as it is a huge penalty of Rs.7,40,000/- for a present Bank.

6. The Ld. DR vehemently opposed the contentions of the Id. AR and submitted that ample opportunities were given to the assessee for filing the details/return of SFT-005 within the due date of 31.05.2019, but the assessee has chosen to file the same after almost three years which should not be condoned. The penalty was rightly invoked by the Assessing Officer.

7. The Ld. D/R submitted that the present appeal should not be entertained and be dismissed.

8. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the due date for filing SFT-004 return/statement was 31.05.2019 and the notice has given by the Assessing Officer under Section 285BA(5) on 26.04.2022 and directed the assessee to file the SFT-001 and SFT-005 on or before 11.05.2022. Ld. AR submitted that there was server issue in the Bank and, therefore, the assessee filed the belated return under SFT-005 which is after the period prescribed under notice under 285BA(5) of the Act that too six months after issuing of notice. The contention taken by the Ld. AR if taken as it is and for which the Ld. AR has relied upon the decision of the Tribunal in case of Halol Urban Co-op. Bank Limited vs. The Director of Income Tax (I&CI) (ITA No.968/Ahd/2019, order dated 25.10.2021). The factual aspect in the present case clearly set out that the assessee despite giving one month period has failed to file the SFT return within the stipulated date given in notice under Section 285BA(5) of the Act. The Tribunal has excluded the period prior to issuance of notice but the Section clearly set out that the concerned assessee shall furnish the statement in respect of such specified financial transaction or such reportable account for the purpose of this Act. The Income Tax authority shall be furnishing the same for such period within such time and in the form and manner as may be prescribed. Thus, it is mandatory provision and, therefore, physical calculation by the Assessing Officer was rightly done and levied under Section 285BA(5) of the Act. The contention of the Ld. AR that server was not working or there was some issue with the server has not been demonstrated thoroughly before the Tribunal and merely on the plea we cannot accept the same. Thus, appeal of the assessee is dismissed.

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

Order pronounced in the open Court on this 17th April, 2024.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 17th April, 2024
PBN/*

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad