

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "A" BENCH : PUNE

[THROUGH VIRTUAL HEARING]

BEFORE SHRI RAMA KANTA PANDA, VICE PRESIDENT
AND
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.1380/PUN./2023
Assessment Year 2011-2012

Neelkanth Co-operative Bank Limited, 202, Gangalhalli Complex, Main Chowk, Shukrawar Peth, SOLAPUR – 413 002. Maharashtra. PAN AAJN0172A (Appellant)	vs.	The ACIT, Circle-2, SOLAPUR – 413 303. Maharashtra. (Respondent)
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For Assessee :	-None-
For Revenue :	Shri Ramnath P. Murkude

Date of Hearing :	22.04.2024
Date of Pronouncement :	25.04.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2011-12, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1057078037(1), dated 16.10.2023, involving proceedings u/s.143(3) r.w.s.147 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. The assessee pleads the following substantive grounds in the instant appeal :

“Learned ACIT-Cir-2, Solapur as well as Hon. CIT(Appeals), NFAC, New Delhi is not justified for following :

- 1. To disallow Rs.2,21,823/- being difference between deduction as per act available u/s.36(1)(vii) Rs.7,46,823 i.e. @ 7.5% on total income of Rs.99,57,640/- and actual provision made as per Profit & Loss Account of Rs.5,25,000/-*
- 2. Appellant prays for Just and Equitable Relief.*
- 3. Appellant prays to add, alter, amend, take additional grounds, submit additional evidence and/or during or pending proceeding.”*

3. Mr. Murkunde next took us to the NFAC’s detailed discussion upholding the impugned addition as under :

“5.2. The second issue is regarding the disallowance excess claim of Rs.2,21,823 u/s.36(1)(viiia) of the act. In this regard, the contention of the AO in the assessment order, submissions of the appellant during appellate proceedings and relevant provisions under section 36(1)(viiia) are carefully considered. The fact is that the appellant in his books of accounts has made provision for bad and doubtful debts at Rs.5,25,00 whereas he has

claimed Rs.7,46,823 u/s.36(1)(vii) at 7.5% of total income which is admissible under the section. The AO has allowed only the amount made in the books of accounts as provision for the same.

5.3. *Similar issue has been adjudicated by the Hon'ble High Court of Punjab and Haryana and held as under:*

"A bare perusal of section 36(1)(vii) as applicable to assessment year 1985-86 shows that the deduction allowable under section 36(1)(vii) is in respect of the provision made. Therefore, making of a provision for bad and doubtful debt equal to the amount mentioned in the said section is a must for claiming such deduction.

Proviso to clause (vii) of section 36(1) clearly shows that making of provision equal to the amount claimed as deduction in the account books is necessary for claiming deduction under section 36(1)(vii).

In the instant case, the assessee had not made any provision in the books of account for the assessment year under consideration by making supplementary entries and by revising its balance sheet. The provision had been made in the books of account of the subsequent year.

Therefore, the Tribunal was right in holding that since the assessee had made a provision of Rs.1,19,36,000 for bad and doubtful debts, its claim for deduction under section 36(1)(viia) had to be restricted to that amount only.

The appeal was, accordingly, dismissed. ”

Respectfully following the decision of the Hon’ble High Court of Punjab and Haryana cited supra, the addition made by the AO is upheld. Hence this ground of appeal is dismissed.”

4. Suffice to say, it has come on record that both the learned lower authorities have already accepted the assessee’s sec.36(1)(viia) provision for bad and doubtful debts to the extent of actual amount of Rs.5,25,000/-; thereby disallowing the impugned excess component of Rs.2,21,823/- in the computation. This clinching fact has nowhere been rebutted at the taxpayer’s behest before the Assessing Officer as well as in the lower appellate proceedings; as the case may be. Faced with this situation, we see no merit in the assessee’s sole substantive grievance. Ordered accordingly.

5. This assessee’s appeal is dismissed in above terms.

Order pronounced in the open Court on 25.04.2024.

Sd/-
[RAMA KANTA PANDA]
VICE PRESIDENT

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 25th April, 2024

VBP/-

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1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "A" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.