

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

**Shri Manish Borad, Accountant Member
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 597/Kol/2024
Assessment Year: 2015-16**

**Income Tax Officer, Haldia,
Aayakar Bhawan, Haldia,
Basudevpur, Khajanchhak,
Purba Medinipur -721602Appellant**

vs.

**Contai Co-operative Agricultural
And Rural Development
Bank Limited, Contai,
Contai, Purba Medinipur - 721401
[PAN: AACAC6648M] Respondent**

Appearances by:

Assessee represented by : None
Department represented by : Pradip Kumar Biswas, Addl. CIT

Date of concluding the hearing : August 29, 2024
Date of pronouncing the order : September 2, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the Revenue pertaining to the Assessment Year (in short 'AY') 2015-16 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the National Faceless Appeal Centre (NFAC), Delhi, dated 18.01.2024 arising out of Assessment Order dated 30.12.2017, passed under Section 143(3) of the Act.

2. The Revenue has raised the following grounds of appeal:

"1 (i) That the Ld. CIT(A) has erred in ignoring the fact that assessee made investment of surplus fund in Scheduled Commercial Bank namely PNB and as such interest income received from the PNB is "Income from Other Sources" and not related to business activity of assessee and hence not eligible for deduction u/s 80P of the Act. (ii) That the Ld. CIT(A) has erred in not considering the fact that for a Cooperative Society, only the income specific to the business activity of Society is eligible for deduction u/s 80P of the Act. (iii) That the Ld. CIT(A) has erred in not considering the fact that interest income arising to Cooperative Society from utilisation of surplus fund was taxable under "Income from Other sources" and not eligible for deduction u/s 80P of the Act. (iv) That the appellant craves leave to add, alter, delete any of the grounds of appeal during appellate proceedings."

3. It is seen, at the outset, that the tax effect on the disputed additions before us is less than Rs. 50 lacs as the prescribed in the CBDT's latest Circular No.17/2019 dated 08.08.2019. It will be pertinent to reproduce the relevant portion of the said Circular as follows:-

"2 . As a step toward further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

| S.No. | Appeals/SLPs in Income-tax matters | Monetary Limit (Rs.) |
|-------|------------------------------------|----------------------|
| 1. | Before Appellate Tribunal | 50,00,000 |
| 2. | Before High Court | 1,00,00,000 |
| 3. | Before Supreme Court | 2,00,00,000 |

4. We find that intention behind the Circular No.17/2019 dated 08.08.2019 needs to be understood in the following perspective:-

3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-à-vis where composite order for more than one assessment year is passed, para 5 of the circular is substituted by the following para:

"5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. if, the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed

in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No. appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessments year, no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/judgment involves more than one assessee, each assessee shall be dealt with separately."

5. On perusal of the Circular No.17/2019 dated 08.08.2019 and the materials available on record, it reveals that this circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals as well. Hon'ble apex court in Commissioner of Customs vs. Indian Oil Corporation Ltd reported in 267 ITR 272 (SC) has settled the law that CBDT's circulars are very much binding on revenue authorities.

6. The Id. DR has also fairly stated that tax effect involved in appeal is less than the prescribed limit.

7. In view of above stated position, the appeal of the Revenue is dismissed because of low tax effect than the prescribed limits as per CBDT Circular No.17/2019 (supra).

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

Kolkata, the 2nd September, 2024.

Sd/-
[Manish Borad]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 02.09.2024.
AK, PS

Copy of the order forwarded to:

- 1 Contai Co-operative Agricultural And Rural Development Bank Limited,
Contai
2. Income Tax Officer, Haldia
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches