

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1350/PUN/2024

निर्धारण वर्ष / Assessment Year : 2018-19

The Jalgaon District Central Cooperative Bank Ltd., 27, Ring Road, Maharashtra – 425 001 PAN : AAAAJ0225F	Vs.	DCIT, Circle-1, Jalgaon
Appellant		Respondent

Assessee by : Shri Nemin Shah
Revenue by : Shri B.S. Rajpurohit

Date of hearing : 25.09.2024
Date of pronouncement : 26.09.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM :

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre, Delhi dated 18.04.2024 passed u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') for the assessment year 2018-19.

2. Briefly, the facts of the case are that the appellant is a District Cooperative Central Bank engaged in the business of banking. The Return of Income for the A.Y. 2018-19 was filed on 30.10.2018 declaring Nil income. Against the said return of income, the assessment

was completed by the Assessing Officer vide order dated 05.02.2021 passed u/s.143(3) r.w.s. 143(3A) & 143(3B) of the Act at a total income of Rs.10,47,173/-. While doing so, the AO brought to tax a sum of Rs.10,47,173/- being entrance fees received from the Nominal Members holding it to be a Revenue receipt, rejecting the contention of the appellant that it is a Capital receipt.

3. Being aggrieved, an appeal was filed before the NFAC who vide impugned order confirmed the action of the AO in the absence of necessary evidence on record showing that it is a Capital receipt placing on the decision of Hon'ble Supreme Court in the case of *Chowringhee Sales Bureau Pvt. Ltd. Vs. CIT (1973) 87 ITR 541*.

4. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

5. We heard the rival submissions and perused the material on record. The solitary issue that arises for our consideration is whether entrance/Membership fee received from Nominal Members constitute Capital receipt or not. This issue can be decided only with reference to the terms and conditions contained in the Bye-laws of the Society and Master Circular of RBI. We find the Coordinate Bench of this Tribunal in assessee's own case in ITA No.395/PUN/2021 order dated 08.03.2023 for the A.Y. 2012-13 had remanded the issue to the file of AO by holding as under :

“8. On perusal of the impugned order as well as assessment order, we note that no discussion made by both the authorities brining to tax receipt on account of nominal/entrance fee. Therefore, in view of the same, we deem it proper to remand the issue to the file of AO for its

fresh consideration to ascertain the nature of receipts in the light of Bye-laws of the assessee and Master Circular of RBI on Capital Adequacy and decide whether the said receipts constitutes of capital or revenue receipts. The assessee is liberty to file evidences, if any, in support of its claim. Thus, ground No.5 raised by the assessee is allowed for statistical purpose.”

Following the same parity of reasoning, we remand this issue to the file of AO. We order accordingly.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 26th day of September, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 26th September, 2024.
Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “SMC” बेंच,
पुणे / DR, ITAT, “SMC” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.