

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

**Before Shri Satbeer Singh Godara, Judicial Member &
Shri Amarjit Singh, Accountant Member**

ITA No.870/Coch/2023 : Asst. Year 2017-2018

The Balussery Co-operative Urban Bank Limited, LL 27 Balussery Post Kozhikode – 673 612. PAN : AAAAT9396D	v.	The Income Tax Officer Ward 2(3) Kozhikode.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Smt. V. Swarnalatha, Sr. DR

Date of Hearing : 13.08.2024	Date of Pronouncement : 23.10.2024
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ORDER

Per Bench :

This assessee's appeal in ITA No.870/Coch/2023 for assessment year 2017-2018 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1057204869(1) dated 19.10.2023 in proceedings u/s.143(3) of the Income-tax Act, 1961; in short "the Act" hereinafter.

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

2. The assessee's sole substantive ground pleads that both the learned lower authorities have erred in law and on facts in restricting it's

sec.36(1)(viiia) deduction claim in sec.154 rectification dated 27.02.2023, as upheld in the lower appellate discussion reading as under :

"4. The appellant has filed this appeal against the rectification order on two grounds mentioned in Para 1 of this order. The grounds are decided as under:-

4.1. Ground No. 1- "The Assessee is eligible to claim deduction for Provisions of Rs.17,89,837/-made in to Accounts for Bad and Doubtful Debts for the extent of Rs. 3,15,513/-as detailed below.

a. The Income Estimated with Assessment order before making Any deduction under this clause and Chapter VI A Rs. 37,11,918.00

7.5% there of

(A) Rs. 3,15,513.00

AND

10% of the aggregate average advances made by the rural Branch of The Bank. Limited to Rs.14,74,324/- (Rs.17,89,837 Less claimed U/s 36(1) (viiia) Rs.3,15,513/-)"

In this ground the appellant had submitted that it was eligible to claim deduction at the rate 7.5% of the Income estimated which comes to Rs.3,15,513/- and a further, deduction Rs.14,74,324/- at the of 10% of average advances made by the Rural branches of the Bank. As per provisions of section 36(1)(viiia) of the Act. The appellant has not submitted any evidence to show the computation of 10% of aggregate average advances made by the rural branches of the Bank. Therefore, deduction of Rs.3,15,513/- only is allowed. Thus the ground of appeal is partly allowed."

2.1. It is thus clear that although the learned CIT(A) has agreed to assessee's submissions in principle, he has granted part relief of only Rs.3,15,513/- on account of the fact that there is no supportive material.

3. The assessee's case on the other hand is that all the relevant details very much form part of records. Be that as it may, we are of the considered view that the assessee's instant sole substantive ground more requires a factual re-verification by the learned field authorities than a detailed adjudication in tribunal in sec.254(1) proceedings. We accordingly deem it appropriate to restore the assessee's instant sole issue back to the Assessing Officer for his afresh appropriate adjudication subject to a rider that the taxpayer shall plead and prove all the relevant facts within three effective opportunities in consequential proceedings. Ordered accordingly.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court on this 23rd Day of October, 2024.

Sd/-
(Amarjit Singh)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Cochin ; Dated : 23rd October, 2024.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT Concerned.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst. Registrar/ITAT, Cochin