

आयकर अपीलीय अधिकरण, कोलकाता पीठ "सी", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. Nos. 1208 to 1212/Kol/2024

Assessment Years: 2012-13 to 2015-16 & 2017-18

Sikkim State Co-operative Bank Ltd. (PAN: AAFAS 2662 A)	Vs.	ACIT, Circle-3(2), Gangtok
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	19.11.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	27.11.2024
For the Appellant/ निर्धारिती की ओर से	Shri A. N. Chatterjee, FCA Shri A. K. Mitra, FCA
For the Respondent/ राजस्व की ओर से	Shri Robindro Singh, Addl. CIT (D.R)

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

All the five appeals have been preferred by the assessee against the separate orders of the Ld. Commissioner of Income Tax (Appeals)-Delhi (hereinafter referred to as the "Ld. CIT(A)") for Assessment years 2012-13 to 2015-16 & 2017-18 respectively. Issues are common in all these appeals i.e. deduction claimed u/s 36(1)(vii)(a) of the Act has been disallowed by the AO, confirmed by the Ld. CIT(A). Hence all the appeals have been taken together for disposal.

2. Brief facts of the case of the assessee are that the assessee is a State Co-operative bank in the state of Sikkim and it operates through various branches located in the urban, semi-urban as well as rural branches. In response to the notice u/s 148, return of income was filed by the assessee as such-for the AY 2012-13 declaring total income of Rs. 35,39,970/-, for the AY 2013-14 income was declared at Rs. 2,84,84,090/-, for the AY 2014-15 income was declared 1,11,77,320/-, for AY 2015-16 income was declared at Rs. 74,05,940/- and for the AY 2017-18 income was declared at Rs. 4,09,12,390/-. The case of the assessee was selected for scrutiny and it is found that the assessee had claimed deduction u/s 36(1)(vii)(a) and 36(1)(vii). The AO issued notices u/s 142(1) of the Act and asked the assessee to furnish details with regard to their claims of above deduction. The A.O. finds that reply of the assessee do not contain a specific detail i.e. branches in respect of which the deduction / claim having been made are the rural branches having population of not more than 10,000 according to last preceding census. Accordingly, deduction claimed by the assessee in all the cases have been denied by the AO.

3. The said order have been challenged by the assessee before the Ld. CIT(A) wherein also the all the appeals have been dismissed on the ground that the assessee could not be able to bring any cogent evidence to controvert the finding of AO with regard to claim of deduction u/s 36(1)(vii) to establish that the branches where it had been situated had population of less than ten thousands.

Being aggrieved and dissatisfied with the order the all the appeals have been filed.

4. The Ld. Counsel for the assessee has fairly argued before us that the at the time of assessment proceedings as well as before the Ld. CIT(A), the assessee could not be able to bring the documentary evidences with regard to population as per last census in which the deduction u/s 36(1)(vii)(a) had been claimed. The Ld. Counsel submits that assessee had filed the letter issued by the lead banker i.e. State Bank of India about categorize of the branches in the State of Sikkim wherein the list of rural branches were

categorically marked but to obtain population census report of the relevant period i.e. 2011-12., it was impossible for the assessee to bring the paper due to the prolonged COVID-19 situation and instead of giving sufficient time to the assessee, the AO has passed the order in haste only to meet the statutory deadlines. The Ld. Counsel for the assessee has filed following papers before us:

- i) Details of head office and branches category and population as per last census (2011)
- ii) Letter issued from the office of the 06-Gyalshing Nagar Panchayet
- iii) Letter issued from the office of Mangan Nagar Panchayat
- iv) Census report issued by Singtam Nagar Panchayet
- v) Letter issued from the office of Sub-divisional Magistrate
- vi) Letter issued from the office of Block Development officer
- vii) Letter issued from the office of the Block Development Officer, Pakyong
- viii) Letter issued from the office of the Block Development Officer, Ravangla
- ix) Letter issued from the office of the Block Development Officer, Regu
- x) Letter issued from the office of the Block Development Officer, Yangang, Namchi
- xi) Letter issued from the office of the Gram Panchayet, Village Administrative Centre
- xii) Letter issued from the office of the Block Development Officer, Daramdin, Soreng

The prayers of the assessee are that the assessee has been given an opportunity to place all the papers before the AO in order to satisfy his claim of deduction u/s 36(1)(vii)(a) of the Act.

5. The Ld. D.R supports the impugned order.

6. Upon hearing the submission of the Id. Counsel of the respective parties, we have perused the record and finds that the assessee is a state cooperative bank operated in State of Sikkim. It operates through various branches located in urban, semi urban as well as rural branches. The assessee in their return claimed deduction u/s 36(1)(vii)(a) of the Act. It further appears from the order that in the course of assessment proceedings,

the assessee failed to furnish a specific explanation with regard to claim of deduction u/s 36(1)(vii) of the Act. The operative portion of the Ld. CIT(A) is thus:

“7.2. In any case, the appellant in the instant case failed to corroborate or substantiate its claim of deduction with factual details and evidences. The appellant, with its summary written submission, did furnish certain documents, such as, district census handbook for Sikkim, 2011, certain population and RBI certificates for certain branches. However, no details or documentary evidences were provided with regard to quantum of advances and long term loans/finance given by the rural branches, profit derived thereon etc. As is clear from the provisions of the Statute, the mere presence of rural branches does not make any claim made by the appellant allowable u/s 36(1)(via). In short, no complete details were furnished to explain and justify the allowability of the deductions claimed by it as fulfilling the criteria prescribed in the statute for the same.”

Before us, the assessee has brought the documents with regard to population as per last census, 2011, he has also filed several documents which is required to be considered by the AO in coming to the right conclusion. Accordingly, we are in this view that the case of the assessee to be remitted back to the file of the AO for fresh consideration after going over the documents filed by the assessee. Accordingly, all the above five cases under appeal are hereby remitted back to the file of the AO for fresh adjudication after hearing the assessee and after perusing the documents.

In the result, all the appeals of the assessee are allowed for statistical purposes.

Order is pronounced in the open court on 27th November, 2024

Sd/-

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Sd/-

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)
Judicial Member/न्यायिक सदस्य

Dated: 27th November, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Sikkim State Co-operative Bank Limited (SISCO Bank), NH 10, Metro Point 5th Mile, Metro Point Tadong, Gangtok, Sikkim-737102
2. Respondent – ACIT, Circle-3(2), Gangtok
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata