

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.693/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2015-16)

M/s. Warangal Urban Co-operative Bank Limited, Hyderabad. PAN:AAA AW0651J	Vs.	Asst. Commissioner of Income Tax, Circle-1, Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri P. Murali Mohan Rao, C.A.	
राजस्व द्वारा / Revenue by:	Shri Waseem UR Rehman, SR-DR	
सुनवाई की तारीख / Date of hearing:	26/11/2024	
घोषणा की तारीख / Pronouncement:	29/11/2024	

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M.:

This appeal is filed by M/s. Warangal Urban Co-operative Bank Limited, Hyderabad (“the assessee”), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (“Ld. CIT(A)”), dated 31.05.2024 for the A.Y. 2015-16.

2. The assessee has raised the following grounds :

- “1. The order of the Ld. CIT(A) is erroneous both on facts and in law.*
- 2. The Ld. CIT(A) erred in partly allowing the appeal instead of allowing the appeal in full.*
- 3. The Ld. CIT(A) erred in sustaining the addition of Rs. 31,42,701/- made in respect of the provision claimed in profit & loss Account.*
- 4. The Ld. CIT(A) ought to have appreciated the fact that assessee itself had disallowed the unascertained expenditure of Rs. 42,11,380/- and claimed Rs. 5,72,375 as ascertained expenditure towards provision for NPA.*
- 5. (a) The Ld. CIT(A) ought to have appreciated that the amount of Rs. 5,39,991/- has not been claimed in Profit and Loss Account as provision.*
(b) The Ld. CIT(A) ought to have appreciated that the amount of Rs. 5,39,991/- of Over due interest reserve on OCC has equal amount as asset under the head Overdue Interest on OIR in the Balance Sheet.
(c) The Ld. CIT(A) ought to have appreciated that the amount of Rs. 16,50,000/- has not been claimed in Profit and Loss Account as provision.
(d) The Ld. CIT(A) ought to have appreciated that the amount of Rs. 16,50,000/- of Over due Interest Reserve has equal amount of asset under the head Overdue Interest on OIR in the Balance sheet.
(e) The Ld. CIT(A) ought to have appreciated the fact that Overdue Interest Reserve on OCC and Overdue Interest Reserve are balance sheet items which are not passed through Profit & Loss account.
- 6. The Ld. CIT(A) erred in not appreciating the fact that AO has erred in disallowing the provision for Education Reserve of Rs. 89,550/- which is nothing but the difference between opening balance and closing balance of Co-op Education Fund.*
- 7. The Ld. CIT(A) erred in sustaining the addition of Rs. 7,88,269/- made towards disallowance of expenses claimed in the Profit & Loss account without appreciating the facts of the case.*
- 8. Appellant may, add or alter or amend or modify or substitute or General ground delete and/or rescind all or any of the grounds of appeal at any time before or at any time of hearing of the appeal.”*

3. The assessee is a company engaged in banking business, filed its Return of Income ("ROI") on 31/10/2015 declaring total income of Rs.58,93,190/-. The case of the assessee was selected for scrutiny under CASS and accordingly notices u/s.143(2) and 142(1) of the Income Tax Act, 1961 ("the Act") were issued to the assessee. Finally, the assessment of the assessee was completed by Learned Assessing Officer ("Ld. AO") u/s.143(3) of the Act on 22.12.2017 determining the total income at Rs.2,71,79,389/-.

4. Aggrieved by the order of Ld. AO, the assessee filed appeal before Ld. CIT(A). The Ld. CIT(A) partly allowed the appeal of the assessee and uphold some disallowances made by the Ld. AO.

5. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. The assessee has raised as many as 8 grounds in this appeal. The Learned Authorised Representative ("Ld. AR") submitted that ground nos.1, 2 & 8 are general in nature and do not require any separate adjudication.

6. With regard to ground no.3 & 4, the Ld. AR submitted that the Ld. AO disallowed Rs.5,72,375/- on account of NPA provisions and Rs.2,90,485/- on account of current provision of standard assets ("provisions for doubtful debt of Rs.8,62,860/-"),

due to the reason that no claim on account of provisions are allowable as per the Act. The Ld. CIT(A) also uphold the order of the Ld. AO. The Ld. AR relying on the decision of co-ordinate bench of ITAT in the cases of DCIT Vs. Surat District Co-operative Bank Ltd. (2022) 140 taxmann.com 450 (Surat-Trib.) and Jivan Commercial Co-operative Bank Ltd. Vs. ACIT (2024) 166 taxmann.com 411 (Rajkot-Trib.), submitted that the assessee being a banking company is eligible to claim the provisions created on account of doubtful debts in terms of section 36(1)(vii)(a) of the Act upto the limit prescribed thereon. Therefore the Ld. AR prayed before the bench to delete the disallowances made by the Ld. AO.

7. With regard to ground nos.3, 5 & 6, the Ld. AR submitted that the Ld. AO has made addition of Rs.89,550/-; Rs.5,39,991/- and Rs.16,50,300/- on account of provisions for educational fund, provisions of overdue interest reserve on OCC and provisions for overdue interest reserve respectively (“total provisions of Rs.22,79,841/-”), contending that these are representing the provisions and not allowable as deduction in computing the total income. The Ld. AR drew our attention to page no.36 of the paper book containing the details of

expenditure claimed by the assessee and submitted that the assessee has not claimed any deduction against total provisions of Rs.22,79,841/-. The Ld. AO wrongly considered that the assessee has claimed the total provisions of Rs.22,79,841/- as expenditure and accordingly disallowed the same. The Ld. CIT(A) also following the version of Ld. AO, uphold the disallowances. The Ld. AR prayed before the bench that the issue may be set aside to the file of Ld. AO for verification whether the assessee has actually claimed the total provisions of Rs.22,79,841/- as expenses or not.

8. With regard to ground no.7, the Ld. AR submitted that the Ld. AO made the addition of Rs.7,88,269/- out of the expenses claimed under the head “rent, taxes, insurance and lighting etc.”, contending that no details had been furnished by the assessee. Before the Ld. CIT(A) also, the assessee could not produce any evidence in support of these expenses and accordingly Ld. CIT(A) also upheld the addition made by the Ld. AO. The Ld. AR submitted that due to the reason out of control of the assessee, evidences in support of the expenditure of Rs.7,88,269/- could not be produced before the Revenue authorities. Accordingly, in the absence of relevant supporting evidence, the Revenue

authorities have disallowed the claim of the assessee. The Ld. AR prayed before the bench that for the sake of justice one more opportunity may be provided to the assessee to submit all the evidences qua the expenditure of Rs.7,88,269/- before the Ld. AO and therefore the Ld. AR requested to set aside the issue to the file of Ld. AO for verification.

9. Per contra, the Learned Department Representative ("Ld. DR") relied on the orders of Revenue authorities and prayed before the bench to dismiss the appeal of the assessee.

10. We have heard the rival contentions and also gone through the record in the light of the submissions made on either side. As far as the claim of the assessee corresponding to ground no.3 & 4 relating to disallowances of provision for doubtful debt of Rs.8,62,860/- is concerned, the Ld. AR submitted that the Ld. AO has disallowed the provision made on account of doubtful debts contending that no claim on account of provisions are allowable as per the Act. However, relying on the decision of coordinate bench of ITAT in the cases of Surat District Co-operative Bank Ltd. and Jivan Commercial Co-operative Bank Ltd. (supra), in which the ITAT held that the provisions made by the co-operative bank on account of doubtful debts are allowable

as deduction u/s.36(1)(viia)(a) of the Act. We have gone through both the decisions of ITAT (supra) and provisions contained in section 36(1)(viia)(a) of the Act and found that, the assessee is eligible for deduction on account of provision created for doubtful debts upto the limit prescribed in that section. Therefore, we are of the considered opinion that the assessee is eligible for deduction on account of doubtful debt of Rs.8,62,860/- subject to the limit prescribed in accordance with the provisions contained in section 36(1)(viia)(a) of the Act. Therefore, we set aside the issue to the file of the Ld. AO with a direction to verify and allow the claim of the assessee subject to the limit prescribed in section 36(1)(viia)(a) of the Act. Accordingly, ground no.3 & 4 of the assessee are allowed for statistical purposes.

10.1 Now coming to ground nos.3, 5 & 6 of the assessee which are related to addition made on account of total provisions of Rs.22,79,841/-, the Ld. AR drew our attention to page no.36 of the paper book containing the details of expenditure claimed by the assessee and demonstrated that the assessee has not claimed any expenditure on account of these provisions. The claim of the assessee that no deduction have been claimed qua total provisions of Rs.22,79,841/- is required to be verified from

the records of the assessee. Therefore, we set aside the issue to the file of Ld. AO with a direction to verify the same from the record of the assessee, whether the assessee has claimed these total provisions of Rs.22,79,841/- as expenditure or not. If the assessee has not claimed these provisions of Rs.22,79,841/- as expenditure, then the Ld. AO should delete the addition accordingly. The ground nos.3, 5 & 6 of the assessee are allowed for statistical purposes.

10.2 Now coming to ground no.7 regarding addition of Rs.7,88,269/- out of the expenses claimed under the head “rent, taxes, insurance and lighting etc.”, the additions have been made by the Ld. AO and sustained by the Ld. CIT(A), due to non-furnishing of corresponding details / evidences before the revenue authorities. Hence in absence of production of such details of the evidences, the addition has been made to the total income of the assessee. Be that as it may, now that the assessee is ready to produce all such documentary evidence in support of his contentions and get the matter disposed of on merits. The highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, we are of the view that fresh opportunity

should be given to the assessee and, accordingly, we set aside the issue to the file of the Ld. AO for fresh verification on merits. Accordingly, ground no.7 of the assessee is allowed for statistical purposes.

11. We further mention that while deciding all the aforesaid issues, the Ld. AO shall provide an opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 29th Nov., 2024.

Sd/-

**(VIJAY PAL RAO)
VICE PRESIDENT**

Sd/-

**(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER**

Hyderabad.

Dated: 29.11.2024.

** Reddy gp*

Copy of the Order forwarded to :

1. M/s. Warangal Urban Co-operative Bank Limited,
C/o P. Murali & Co., C.As, 6-3-655/2/3,
Somajiguda, Hyderabad-500082
2. ACIT, Circle-1, Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER,