

**IN THE INCOME TAX APPELLATE TRIBUNAL "DB" BENCH: PATNA  
VIRTUAL HEARING IN 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. No. 29/PAT/2021**

**Assessment Year: 2013-14**

DCIT, Circle-1, Muzaffarpur		M/s Uttar Bihar Gramin Bank  (PAN:AAAJU 0238 J)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	05.03.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	26.03.2025
For the assessee / निर्धारिती की ओर से	Shri Sanjeev Kr. Anwar, Advocate
For the revenue / राजस्व की ओर से	Smt. Rinku Singh, CIT DR

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

This is the appeal preferred by the revenue against the order of Commissioner of Income Tax (Appeals)-Patna-2, Patna (hereinafter referred to as the Ld. PCIT] dated 22.06.2020 for AY 2013-14.

2. Brief facts of the case of the assessee is that the assessee filed its return of income disclosing total income of Rs. 1,20,20,99,660/- and also filed revised return of income declaring total income of Rs. 1,14,48,64,960/-. The case of the assessee was

selected for scrutiny, notices were issued and after hearing the assessee the assessment was completed by declaring total income of Rs. 1,32,07,19,840/- as the AO has added an amount of Rs. 10,70,70,590/- u/s 36(1)(viia) and further added Rs. 6,79,97,094/- by making disallowance u/s 36(1)(viii) of the Act.

3. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been allowed thereby directing the AO to delete the amount of Rs. 10,70,70,590/- and also accepted the claim made by the assessee u/s 36(1)(viia) amounting to Rs. 18,99,43,632/-. The Ld. CIT(A) has also allowed the appeal of the assessee on an amount of Rs. 6,79,97,094/-.

Being aggrieved and dissatisfied the revenue has preferred an appeal before us.

4. The Ld. DR challenges the impugned order thereby submitting that the Ld. CIT(A) erred in holding the disallowance of Rs. 10,70,70,590/- made u/s 36(1)(viii) ignoring the fact that the assessee failed to substantiate that entire loan relates to the rural branches and further ignored the facts that bad and doubtful debts corresponding to NPA was determined by the assessee on estimated basis in respect of branches at place for population more than 10 thousands. The Ld. D.R further challenges the impugned order by submitting that the Ld. CIT(A) erred in law in deleting the disallowance of Rs. 6,79,97,094/- ignoring the facts that KCC limit is reduced however the order for ascertaining the new CC limit in case of borrower making it a clear-cut case of short term loan/ advance.

5. Contrary to that the Ld. A.R supports the impugned order by submitting that the Ld. CIT(A) has passed an order in favour of the assessee after going over the list of branches supplied by the RBI. The Ld. Counsel submits that the assessee has submitted list of rural branches as per 2011 census and RBI has confirmed the list of these branches. The Ld. Counsel submitted a chart of calculation of rural advances as per Section 36(1)(viia) and Rule 6ABA. The Ld. Counsel further submits that the scheme of KCC loan is valid for five years subject to annual review and annual review does not

curtail the term of the loan. The Ld. Counsel further submits the CC limit and term loan are two distinct component and these are the only modes of disbursing loans. The Ld. A.R by supporting the order of Ld. CIT(A) has submitted that there is no infirmity in the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, we have perused the order of AO and Ld. CIT(A), and there is no dispute that the assessee derived income from banking activities. There are only two grounds by which Learned ACIT has objected the allowance of claim u/s 36(1)(viiia) as - the list of rural branches contained number of branches having population of excess of ten thousand as per census data and total rural advance of Rs305,59,23,19,536 is gross figure, which should be divided by 12.

It is important to mention here that the list of rural branches of the bank supplied by RBI has been filed by the assessee before lower authorities as well as before us. The list of supplier submitted by the assessee before us contains 660 branches. We do not find anything in the order of AO that any of the branches of the list where the population is more than ten thousand. The assessee submitted before us that even if 20% of the rural advances of Rs. 3,05,59,23,19,536/- is considered as non-rural advances. The liability would be calculated as under:

20% of total rural advance of Rs. 305,59,23,19,536/-	Rs. 61,11,84,63,907/-
Average Rural Advance (61,11,84,63,907/12)	Rs. 5,09,32,05,326/-
10% of Rs. 12,73,30,13,316 (Allowable)	Rs. 50,93,20,532/-
Claimed u/s 36(1)(viiia)	Rs. 10,70,70,590/-

7. We have gone through the order passed by the Ld. CIT(A) and find that the Ld. CIT(A) has called a remand report, and CIT(A) after considering the remand report submitted by the AO, allow the appeal of the assessee. The operative portion of the Ld. CIT(A) is reproduced herein below:

*“I have gone through the submissions made by learned A/R of the appellant, the assessment order and remand report submitted by the AO through Range head vide letter No. JCIT/R-2/Muz/Remand Report/2016-17/922 dated 15.03.2017 which is placed on record. On the first issue of allowability of additional claim of provision for bad debts u/s 36(1)(viiia), the reason of disallowance made by the AO is that the list of branches supplied by the appellant contains branches of the places having population excess of 10,000. However, neither in the assessment order nor in the remand report, the AO has given the list of such branches, where the population exceeds 10,000. The appellant on the other hand submitted list of rural branches of the bank as per Census, 2011 supplied by the RBI, which is placed on record. The list contains a total of 660 branches, as certified by RBI.”*

8. The Ld. CIT(A) after going over the calculation submitted by the assessee has passed an order which is as follows:

*“I find force in the argument of learned AR and he has successfully demonstrated the allowability of additional claim u/s 36(1)(viiia). Thus, the disallowance made under this head amounting to Rs. 10,70,70,590/- is hereby deleted and the claim made by the appellant u/s 36(1)(viiia) of Rs. 18,99,43,632/- is allowed.”*

9. Keeping in view the above discussion and the order passed by the CIT(A), we do not find any infirmity in the order of Ld. CIT(A) on the aforesaid issue i.e. the disallowance made under this head amounting to Rs. 10,70,70,590/-

10. Coming to the second ground is concerned the Ld. CIT(A) in its order has held thus:-

*“I, therefore, hold KCC loans as long term finance for the purpose of Section 36(1)(viii) and as such the interest on KCC loans would be considered for allowing the limit for transfer to special reverse under Section 36(1)(viii). Since, the maximum limit allowable under this provision is Rs. 10,00,00,000/- against the available deduction of Rs. 14.54. crores, the deduction is hereby allowed to the extent of Rs. 10,00,00,000/-. The AO has restricted the deduction at Rs. 3,20,02,906/- and has disallowed Rs. 6,79,97,094/- which is being deleted and AO has been directed to allow the deduction under Section 36(1)(viii) of Rs. 10,00,00,000/-.”*

11. Going over the facts of the case as well as the order passed by the Ld. CIT(A), we do not find any infirmity in the impugned order of Ld. CIT(A). Accordingly, the appeal of the revenue is dismissed.

In the result, the appeal filed by the revenue is dismissed.

Order is pronounced in the open court on 26<sup>th</sup> March, 2025

Sd/-

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

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

Dated: 26<sup>th</sup> March, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, Circle-1, Muzaffarpur
2. Respondent – M/s Uttar Bihar Gramin Bank, Sharma Complex, Kalambagh Chowk, Muzaffarpur-842001
3. Ld. CIT(A)-Patna-2, Patna
4. Ld. Pr. CIT- , Patna
5. DR, Patna Bench, Patna

True Copy

By Order

Sr.Ps/Assistant Registrar  
ITAT, Patna Bench, Patna