



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।
**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

आयकरअपीलसं./ITA No.183/RJT/2024

निर्धारणवर्ष /**Assessment Year: (2014-15)**

Saurashtra Gramin Bank 1 st Floor, LIC Jeeven Prakash Building, Wing 2, Tagore Road, Rajkot-360 001 (Gujarat)	बनाम Vs.	Income Tax Officer National Faceless Assessment Centre.
स्थायीलेखासं/.जीआइआरसं/.PAN/GIR No. AAHAS2116H		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी/Respondent)

निर्धारितीकीओरसे/Assessee by

: Ms. A.D. Vyas, AR

राजस्वकीओरसे/Revenue by

: Shri Sanjay Punglia, CIT-DR

सुनवाईकीतारीख/Date of Hearing

: 26/02/2025

घोषणाकीतारीख/Date of Pronouncement

: 19/05/2025

आदेश/Order

Per Dr. Arjun Lal Saini, A.M.:

Captioned appeal filed by the assessee, pertaining to assessment year (AY) 2014-15, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi[in short 'Ld.CIT(A)/NFAC'], under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), dated 09.02.2024, which in turn arises out of an assessment order passed by the Assessing Officer /National Faceless Assessment Centre, Delhi u/s 147 r.w.s 144B of the Act, dated 29.03.2022.



2. Grounds of appeal raised by the assessee are as follows:

1. *The grounds raised in this appeal are without prejudice to one another.*
2. *Learned Commissioner of Income Tax (A), has grievously erred in making addition of Rs.448.09 lakh by alleging that assessee has not made reversal of excess provision on NPA Accounts. Learned CIT (A) ought to have considered the RBI Circular No DBR. No BP.BC.2/21.04.048/2015-16 dated 1st July, 15, wherein it is specifically mentioned that a bank may reverse the excess provision on sale of NPAs, if the sale value is for a value higher than the NBV, to its Profit and loss account in the year the amounts are received. Besides CIT (A) ought to have considered the same circular point No 5.7 wherein it is specifically stated that the regulatory norms for provisioning represent the minimum requirement. A bank may voluntary make specific provisions for advances at higher rates. Further, the bank has not sold any NPA to any bank or asset reconstruction company (ARC).So addition made is totally disregard with the RBI Circular, may kindly be deleted.*
3. *Your Honour's Appellant craves leave to add, amend, alter or withdraw any or more grounds of Appeal before hearing of Appeal.*

3. The relevant material facts, as culled out from the material on record, are as follows. In the assessee's case, the Assessing Officer (in short, 'AO') issued notice u/s 148 of the Act, on 31.03.2021, for reopening the assessment for the year under consideration, for assessment year (AY) 2014-15, after reasons for reopening and obtaining prior approval of the Competent Authority. The reasons for reopening the case are reproduced as under:

"Assessee is a banking institution. The assessee filed its return of income on 30.09.2014, for AY 2014-15 declaring total income at Rs.36,78,37,062/-. Thereafter, scrutiny assessment u/s 143(3) r.w.s. 92CA(3) was finalized on 22.12.2017, at assessed income of Rs.36,78,37,062/-.

*On perusal of annual report for FY 2013-14 of the assessee, it is noticed that at page No.64 revealed the assessee had opening balance of provisions made of 1228.35 lacs against NPAs as on 31.03.2013 and made NPA provisions of Rs.17.04 lacs and further written off/written back of excess provisions of Rs.238.81 lacs, thereby resulting in closing balance of provisions made of Rs.1006.58 lacs against NPAs as on 31.03.2014. Out of Rs.238.81 lacs, Rs.96.42 lacs belong to write off, Rs.139.04 lacs belongs to reversal of excess provision and Rs.3.35 lacs belongs to write off of ADWARDS 2008 in which all accounts are not live. Rs.122 lacs (139.04-17.04) was shown under miscellaneous income and offered to tax in the computation of income. **Further at the page no.61 of the Annual Report 2013-14, it was reported that total provisions required or NPA in line with the RBI guidelines as on Rs.558.49 lacs only. However, the bank was having provisions of Rs.1006.58 lacs as on 31.03.2014. Thus, the assessee was required to reverse the excess provision of Rs.448.09 lacs***



(Rs.1,006.58 – Rs.558.49) as on 31.03.2014 and offered to tax as it was done in case of Rs.122 lacs as above. Not doing so has resulted in under disclosure of income of Rs.448.09 lacs.

Therefore, there was under assessment of Rs.448.09 lacs is required to be added of the total income of the assessee and escaped assessment within the meaning of section 147 of the I.T. Act, 1961. On perusal of case records, it is noticed that the computation of income of A.Y. 2014-15 revealed the assessee had claimed provision of bad and doubtful debts u/s 36(1)(viiia) of an amount of Rs.75,85,935/-. Further, verification of the Notes on Accounts for the financial year 2013-14 revealed that the assessee had made the provision of Rs.NIL for the FY 2013-14, out of the current year's profit for NPA in its accounts to secure its Non Performing Assets (NPA). Further during the proceeding vide its letter dated 09.11.2017, stated that as the Saurashtra Gramin Bank is a scheduled bank incorporated under the laws of Regional Rural Bank, so the benefit under the section 36(1)(viiia) was available to it. It did not give requirement/need assessment for the provision. Further, as per the P/L account, no fresh provision was needed on this count. Therefore, the allowance of the provisions of Rs.75,85,935/- was not tenable in the eyes of law. Therefore, there was under assessment of Rs.75,85,935/- lacs is required to be added of the total income of the assessee and escaped assessment within the meaning of section 147 of the IT Act, 1961.

In view of the above discussion, underassessment of Rs.448.09 lacs & Rs.75,85,935/- in respect of allowance of the provision of bad and doubtful debts u/s 36(1)(viiia) has remained unexplained. I have, therefore reason to believe that as above discussion Rs.5,23,94,935/- (Rs.448.09 lacs + Rs.75,85,935/-) has escaped assessment within the meaning of section 147 of the it Act, 1961, for which the assessment for AY 2013-14 is required to be reopened within the meaning of section 147 of the I.T. Act.”

4. Therefore, AO issued notice to the assessee u/s 148 of the Act. In response to the notice, under section 148 of the Act, the assessee filed the return of income. Subsequently, a notice under section 142(1) of the Act was also issued to the assessee on 7th March 2022, calling for various details, including detailed submission on the issues, on which the case is reopened. In response to notice under section 142(1), the assessee filed written submission, on 11th March 2022, before the assessing officer which are reproduced by the assessing officer in his assessment order page No.4 to 5.

5. After due verification of the details filed by the assessee, the assessing officer noted that the assessee has only submitted certain basic details such as computation of income and copies of other submissions which were filed at the



time of original assessment. Copies of the orders of ITAT for A.Y. 2007-08 2008-09, 2010-11 and 2012-13. The two issues which are under consideration in this reopened assessment proceedings are:

(i). the excess allowance of provision of Bad and doubtful debts u/s 36(1)(vii) of the Income tax Act amounting to Rs. 75,85,935/-

(ii). Non reversal of excess NPA provision over and above RBI guidelines amounting to Rs. 448.09 lakhs.

The assessing officer noted that despite being specifically asked to submit detailed explanation on the issue of reopening along with all necessary documentary evidences which assessee may rely on; no such detail/submission has been filed. Thus, as per assessing officer, sufficient details were not furnished by the assessee, therefore as discussed in details in the reasons for reopening, the assessing officer had reason to believe that the assessee has claimed excess provision for Bad and doubtful debts amounting to Rs. 75,85,935/-. In view of the above, the claim of provision for Bad and doubtful debts is not verified to the extent and it was held that assessee has claimed excess provision for Bad and doubtful debts amounting to Rs. 75,85,935/-, which was disallowed, by the assessing officer, resulting in addition to the total income of the assessee by the same amount.

6. Similarly, as discussed in details in the reasons for reopening, the AO had reason to believe that the assessee has not reversed the excess provision made for NPA amounting to Rs. 448.09 Lakhs. The assessing officer noted that the assessee has no explanation to offer in this respect, and not submitted sufficient documents to prove claim and therefore the excess provision so made for NPA was added to the total income of the assessee, resulting in addition to the total income by Rs. 4,48,09,000/-.



7. Aggrieved by the order of AO, the assessee carried the matter in appeal before Ld.CIT(A), who has dismissed the appeal of assessee. Learned CIT(A) had just reiterated the findings of the assessing officer and confirmed the addition made by the assessing officer, therefore assessee is in further appeal before us.

8. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld CIT(A) and other materials brought on record.

9. The Ld. Counsel for the assessee submitted before the Bench that assessee made the provisions of NPA and these provisions of NPA do not have any bearing on the tax liability of the assessee, as these provisions of NPA is only for disclosure purposes, as per the guidelines of Reserve Bank of India (in short, 'RBI'). In fact, the assessee has never claimed these provisions for NPA, as tax deduction or as an expense, in the profit and loss account. Therefore, just assessee had passed reversal entry in the books of accounts to write-off the excess provision for NPA, does not mean that it is income of the assessee, as the assessee never claimed these NPA provisions in the profit and loss account in the earlier years. Moreover, the assessee may create more provision for NPA, in the books of accounts, then the amount prescribed by RBI. Therefore, just to maintain the excess provisions in the books of accounts does not mean that assessee has evaded the payment of taxes.

10 The Ld. Counsel for the assessee, took us through paper book page 47, wherein opening balance of NPA is given and provision made for the year under consideration is also stated as written off / written back . The adjustment



made by the assessee in its audited accounts are reproduced below for ready reference:

a. Opening balance	1,228.35	901.52
b. Provisions made during the year	17.04	402.78
c. Write off/write back of excess provisions	*238.81	75.95
d. Closing balance	1,006.58	1228.35

The Ld. Counsel for the assessee then took us through paper book page-71 wherein computation of total income is given. In the computation of total income, the provision of NPA and provisions of Standard Assets are added by assessee and assessee has claimed only deduction u/s 36(1)(viiia) of the Act. Therefore, Ld. Counsel for the assessee contended that assessee has been showing the provision for NPA in the computation, only for the presentation purpose and not for claiming expenses. The Ld. Counsel for the assessee took us through the computation of total income, for the current year, which is at page No.-87, and explained the Bench that provisions for NPA has never been claimed in the profit and loss account or in the computation of total income. Therefore, Ld. Counsel prayed the Bench that addition made by the assessing officer may be deleted.

11. On the other hand, Ld.CIT-DR for the Revenue took us through paper book filed by assessee on page no. 44 and stated that there is inconsistency in making the provisions for NPA. He took us through the point No.(a) and (b), of notes to accounts, which are reproduced below:

“3. (a) Total provision required for NPA in line with the RBI guidelines as on 31.03.2014 is Rs.558.49 Lac. The Bank is having adequate provision of Rs.1006.58 Lac. as on 31.03.2014.

(b) The provision on standard assets as per RBI guidelines amounting to Rs.447.39 Lac is required to be made during FY 2013-14. The Bank already held provision of Rs.401.53 Lac as on 31.03.2013. Balance provision of Rs.75.85 Lac has been provided by the Bank during the period. The provision is shown as per RBI guidelines



under the head “Other Liabilities and Provisions-Others” in Schedule No.5 of the Balance Sheet.”

Therefore, Ld.CIT-DR for the Revenue contended that if the figures are compared on page-44 of the paper book of assessee, with the figure given on pages 87 and 71 of the assessee’s paper book, then there would be a minor difference comes and on page-47 of the assessee’s paper book, the provisions of NPA made during the year is shown at Rs.17.05 lakh, whereas in the previous year it was Rs.402.4 lakh. Therefore, these figures are not being compared with page-44 of assessee’s paper book and with the audited books of accounts, therefore, the matter may be remitted back to the file of Assessing Officer for re-verification in accordance with law.

12. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the facts of the case including the findings of the Id CIT(A) and other materials brought on record. We have gone through the assessee’s paper book and noted that the figures mentioned on various pages of assessee’s paper book have been reconciled by the Id. Counsel for the assessee and she explained the Bench that there is no difference in the figures mentioned in the paper book, as pointed out by the Id DR for the revenue, therefore, the matter should not be remitted back to the file of the assessing officer for fresh reconciliation, as these figures were before the assessing officer, during the assessment proceedings, therefore second inning should not be given to examine the same figures which have been examined by the assessing officer during the assessment proceedings. Besides, the assessee submitted audited balance sheet, computation of total income and justification of NPA, during the assessment proceedings, therefore during the assessment proceedings also, we find that assessee submitted all the required documents and evidences to verify



the NPA provisions, therefore this *lis* cannot be remitted back to the file of the assessing officer to examine the same set of documents and evidences again.

13. We note that learned CIT(A) deleted the addition to the tune of Rs.75,85,935/-, claimed by the assessee, as a deduction under section 36 (1) (via) of the Act, however addition made by the assessing officer, on account of NPA provisions, to the tune of Rs. 448.09 lakhs, has been confirmed by the learned CIT(A). We note that the assessee has challenged the action of the AO in making addition of Rs.448.09 Lakhs and during the appellate proceedings, it was the submission of the assessee that the AO has taken the facts stated in Schedule 18 notes forming part of accounts for the year ended 31.03.2014 of Annual Report of the Bank para 3. Provision on advances it was mentioned that total provision required for NPA is in the line with RBI guidelines as at 31.03.2014 was only 558.49 Lakhs, against which bank has made provision of Rs.1006.58 Lakhs. In this regards, the assessee has submitted that assessee is a banking company and providing credit facilities to its customers. There are chances of not getting back the advances provided by the bank to its customers. Therefore, as a prudential norms RBI has issued guidelines for “Income Recognition, Asset Classification and provisioning pertaining to Advances”. Every bank is following the suitable guidelines issued by RBI. In this context, the assessee is also following the same and created Bad and Doubtful Debt Reserve according to the master circular issued by RBI. Therefore, it is very much statutory to be follow this circular for written back guidelines also. The assessee has also submitted that cognizance to the guidelines mentioned at Point No.6.5(A)(a) on page No.37 at Para No.(iii) of RBI Circular No. DBR. No. BP.BC,2/21.04.048/2015-16 Dated: July 1, 2015, where relevant guidelines mentioned.



14. Based on these facts the learned CIT(A) on perusal of Annual report for FY 2013-14 of the assessee, it was noticed by the AO that at page No.64 revealed that the assessee had Opening balance of provisions made of 1228.35 lakhs against NPAs as on 31.03.2013 and made NPA provision of Rs.17.04 lakhs and further written off / written back of excess provisions of Rs. 238.81 lakhs, thereby resulting in closing balance provisions made of Rs.1006.58 lakhs against NPAs as on 31.03.2014. Out of Rs.238.81 lakhs, Rs.96.42 lakhs belongs to write off, Rs.139.04 lakhs belongs reversal of excess provision and Rs.3.35 lakhs belongs to write off of ADWARDS 2008 in which all accounts are not live. Rs.122 lakhs (139.04 – 17.04) was shown under miscellaneous income and offered to tax in the computation of income. Further at the page no. 61 of the Annual report 2013-14, it was reported that total provision required or NPA in line with the RBI guidelines as on is Rs.558.49 lakhs only. However, the bank was having provisions of Rs.1006.58 lakhs as on 31.03.2014. Thus, the assessee was required to reverse the excess provision of Rs.448.09 lakhs (Rs.1,006.58 – Rs.558.49) as on 31.03.2014 and offered to tax as it was done in case of Rs.122 lakhs as above. Not doing so, has resulted in under disclosure of income of Rs.448.09 lakhs. Therefore, Ld. CIT(A) confirmed the addition made by the AO of Rs.448.09 Lakhs by holding that assessee had not made reversal of excess provision on NPA Accounts.

15. We do not agree with the above action of the learned CIT(A). We have examined the audited books of accounts of the assessee and balance sheet and noted that allegations of the ld. CIT(A) that assessee has not made reversal of excess provision on NPA accounts, is wrong. In fact, the assessee has made reversal of excess provision, on NPA accounts as per its needs. The assessee has to maintain voluntarily higher provision of Rs. 1006.58 Lakhs, which is not prohibited by RBI guidelines, and that it why, the assessee did not make reversal of excess provision. We find that these are the provisions only which



the assessee has been showing in the books of accounts, as per the RBI guidelines, for the purpose of disclosure and presentation in the balance sheet. The assessee has never claimed these provisions, on NPA accounts, as an expense, in the profit and loss account, therefore no addition should be made in the hands of assessee. It is stated by Id Counsel that total provision required for NPA, in the line with RBI guidelines as at 31.03.2014 was only 558.49 Lakhs, against which bank has made provision of Rs. 1006.58 Lakhs. Learned CIT has further taken the facts from Page No 64 of the Annual Report (Paper book Page No 47) of NPA movement and Provision on NPA as under :

AS PER PAGE NO 64 OF THE ANNUAL REPORT

Opening Balance of Provision on non performing Assets	12,28,35,000
Add provision made during the year	1,70,4000
Less Write Off/write back closing balance	<u>2,38,81,000</u>
Closing Balance	10,06,58,000

We have examined the above figures and found correct. We note that assessee is a banking company and providing credit facilities to its customers. There are chances of not getting back the advances provided by the bank to its customers. Therefore, as prudential norms, the RBI has issued guidelines for "Income Recognition, Asset Classification and provisioning pertaining to Advances". Every bank is following the suitable guidelines issued by RBI. The assessee also created Bad and Doubtful Debt Reserve according to the master circular issued by RBI. Therefore, it is very much statutory to be follow the circular of RBI for written back guidelines also. The regulatory norms for provisioning represent the minimum requirement. A bank may voluntarily make specific provisions for advances at rates which are higher than the rates prescribed under existing regulations, to provide for estimated actual loss in collectible amount, provided such higher rates are approved by the Board of Directors of the Bank and consistently adopted from year to year. Such additional provisions are not



to be considered as floating provisions. The additional provisions for NPAs, like the minimum regulatory provision on NPAs, may be netted off from gross NPAs to arrive at the net NPAs.

16. It is clearly mentioned that the requirement mentioned is the minimum requirement and bank may voluntarily make provision at higher rates, which are higher than the rate prescribed by the RBI. In such situation, if bank holding some higher amount of provision over and above the required level, then bank may held it for prudential practice and to secure any future uncertain contingency. It is not always to maintain only the amount which is required by the RBI. The Bank has to disclose that they are having sufficient amount of provision over and above the required level of reserve to bring the financial strength to the bank to represent higher risk bearing capacity. Accordingly, A.O. cannot take the base that Assessee is allowed to make provision of bad and doubtful debt, only upto the minimum requirement as prescribed by the RBI. The Provisions for NPA, are only for disclosure and presentation in the balance sheet and does not have any connection with tax liability of the assessee and no tax evasion device is developed by the bank just by creating the more provision for NPA, in the balance sheet, to face the future contingencies. The settled issue in the Income Tax Act, is that real income should be taxed and not the provision or excess provision made by assessee's Bank.

17. We note that the Provision, on NPA Accounts, are never claimed by the assessee, as deduction. The assessee always adds back the Provision, on NPA, in the computation of Income for presentation and disclosure. The assessee only claimed the deduction, as allowable u/s 36(1)(viiia), for Bad and doubtful debts for Rural Advances. So, whenever there is movement of NPA or NPA Provision in assessee's books of accounts, it has never any tax effect on that. It is only accounting entries, as per RBI reporting and disclosure requirements.



The Hon'ble Supreme Court in a recent case of Southern Technologies Ltd. vs. JCIT (320 ITR 577- SC) has held that "Provision for NPA" made in terms of the RBI directions does not constitute expense for purposes of section 36(1)(vii) and thus the same is not allowable. Further, the Supreme Court has also ruled that deduction can also not be claimed u/s 37(1) of the Act. In view of the aforesaid decision of the Supreme Court, provision for NPA was never claimed, as an expense, in the profit and loss account, by the assessee under consideration, therefore no addition should be made in the hands of the assessee. Hence, we are not inclined to accept the contention of the Assessing Officer in any manner and hence the addition so made by the assessing officer, is deleted. Hence this ground of the assessee is allowed.

18. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 19/05/2025.

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/**JUDICIAL MEMBER**

राजकोट /Rajkot

दिनांक/ Date: 19/05/2025

DKP Outsourcing Sr.P.S

आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

Sd/-
(DR.ARJUN LAL SAINI)
लेखा सदस्य/**ACCOUNTANT MEMBER**

By order/आदेशसे,

सहायकपंजीकार

आयकरअपीलीयअधिकरण ,राजकोट