

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA 'DB' BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s): 30/PAT/2021
Assessment Year(s): 2014-15**

DCIT, Circle-1, Muzaffarpur	Vs.	M/s. Uttar Bihar Gramin Bank
(Appellant)		(Respondent)
PAN: AAJU0238J		

Appearances:

Department represented by : Md. A H Chowdhury, CIT (DR).

Assessee represented by : Sanjeev Kumar, Adv.

Date of concluding the hearing : 07-January-2026

Date of pronouncing the order : 25-February-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is against the order of the Commissioner of Income Tax (Appeals)-2, Patna [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2014-15 dated 22.06.2020.

1.1 The Registry has not pointed out any delay in filing the appeal. However, the Revenue has filed an application for condonation of delay, if any, in filing the appeal before the Tribunal. The reason for the delay is stated to be the restrictions imposed throughout the country due to the unfortunate outbreak of COVID-19 pandemic and later the working mechanism of the Income Tax Department also underwent a paradigm shift. The Revenue has prayed in the interest of justice for condonation of delay, if any, in submitting the appeal. On going through the petition



seeking condonation of delay, we are satisfied that the Revenue had a sufficient cause for the delay, the delay is condoned and the appeal is admitted for adjudication.

2. The Revenue is in appeal before the Tribunal raising the following grounds of appeal:

“i) On the facts and in the circumstances of the case, the Ld. CIT(A) erred in law by deleting the disallowance of Rs. 43,67,25,641/- made by the AO u/s 36(1)(viii) on account of provision for Bad and Doubtful Debts ignoring the following facts:

a) The assessee failed to substantiate that the entire loan relates to the rural branches.

b) The Bad and Doubtful debts corresponding to NPAs was determined by the assessee on estimate basis in respect of the branches at places having population more than 10000.

The assessee included previous year advances in the rural advances taken for calculation of deduction.

(ii) On the facts and in the circumstances of the case, the Ld. CIT(A) erred in law by deleting the disallowance of Rs. 44,70,128/- made by the AO on account of provision for food and beverage to staff in office premises by admitting fresh evidence during the course of appellate proceedings and without allowing the Assessing Officer a reasonable opportunity to examine and rebut the fresh evidence produced for the first time by the assessee before the Ld. CIT(A) which is in violation of Rule 461(3) of the IT Rules, 1962.

(iii) On the facts and in the circumstances of the case, the Ld. CIT(A) erred in law in allowing the additional claim of Rs. 7,90,94,700/- made by the assessee on account of amortization of Government Securities.

(iv) On the facts and in the circumstances of the case, the Ld. CIT(A) erred in law in allowing the additional claim of Rs. 1,74,00,000/- made by the assessee for provision of performing assets.

(v) Any other grounds that may be urged at the time of hearing.”

3. Brief facts of the case are that the original return of income was filed on 19.11.2014 showing total income of ₹132,80,78,860/- which was taken up for scrutiny through Computer Assisted Scrutiny Selection (in short 'CASS') and addition on account of NPA u/s



36(1)(viia) of the Act at ₹43,67,25,641/- and disallowance of the provisional expenditure as per para 11 of the assessment order at ₹44,70,128/- were made and the total income was assessed at ₹176,92,74,630/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who considered in detail the provisions of section 36(1)(viia) of the Act, Rule 2ABA of the Income Tax Rules, 1962 and after going through the remand report of the Ld. AO has given his findings as under:

“I have gone through the submissions made by learned A/R of the appellant, the assessment order and the remand report. On the first issue of allowability of additional claim of provision for bad debts u/s 36(1)(vii), 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 in excess of 10,000. AO has quoted the branches Narkatiya, Bochaha and Motipur where the population exceeds 10000. The appellant on the other hand submitted list of rural branches of the bank as per Census, 2011 supplied by RBI, which is placed on record. The list contains a total of 660 branches, as certified by RBI. This list contain Narkatiya (s.n. 230) and Bochaha (s.n.576) as rural branch, whereas the AO has merely apprehended that population of these places are more than 10000, without substantiating the same.

The figures presented in the assessment proceeding were considered misleading but the AO has not been able to demonstrate as to how the figures are misleading. The average aggregate rural advance is Rs. 29,74,02,11,381/-, whereas the figure of March, 2013 is Rs. 32,76,53,33,022/-. On examination it was found that figures of rural advance for the months of April, 2013 to September, 2013 are much less than Rs. 3000 crores. So the average after division by 12 as calculated at Rs. 2974.02 crores is correct. I do not find anything misleading in the figures. The AO accepted the proposition in the assessment order that the claim is allowable if it stands the test of law. Section 36(1)(vii) stipulates the allowability of claim in the manner prescribed and the manner has been prescribed in rule 6ABA. The appellant has made the calculation as per rule and I do not find any discrepancy in the same.

In view of the provisions of rule 6ABA of IT Rules, 1962, 10% of the aggregate rural average advance is to be allowed in case of provision for bad debts, in addition to the 7.5% of the total income computed before



making any deduction under this clause. The calculation by the appellant has been made as per the revised figures given during the course of assessment, where the total rural average advance is Rs. 3,56,88,25,36,571/- The calculation have been checked again and it was found that they are in consonance with rule 6ABA, as detailed hereunder:-

Total Rural Advance-Rs. 3,56,88,25,36,571

Average -Rs. 3,56,88,25,36,571/ 12 = Rs. 29,74,02,11,381

10% of average -10% of Rs. 29,74,02,11,381 = Rs. 2,97,40,21,138

Allowable provision -Rs. 2,97,40,21,138/-

Thus, the calculation has been correctly made by dividing the figure by 12. The learned AR further emphasized to substantiate his argument that even if, for argument sake 80% of the figure of Rs. 3,56,88,25,36,571 is considered as non rural advance, 10% of the balance 20% of rural average advance is sufficient to take care of the claim to be allowed.

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.43,67,25,641/- is hereby deleted and the claim made by the appellant u/s 36(1)(viiia) of Rs. 57,79,99,272/- is allowed.

An amount of Rs. 44,70,128/- has been disallowed considering the provision for food and beverage as such expenditure is not allowable because it is an provision and not the actual expenditure. The AR demonstrated before me that this is an actual expenditure and not the provision. The word 'provision' has been used as provision means supplies of food and drink. Some vouchers of the expenses claimed under this head were also produced. It has been observed that AO has not allowed the expenditure on account of the nomenclature of the head of expense, since the word 'provision' has been used. The use of word 'provision' is not the provision for expenses, so is not hit by section 36(1)(viiia). The disallowance is, therefore, hereby deleted.

During the course of assessment, the appellant had filed a revised computation along with a petition and prayed the assessing officer to allow the following additional claim as per the decision of Delhi High Court in the case of CIT vs. Sam Global Securities Ltd. reported in 360 ITR at page 682:-

1. Provision for performing assets- Rs. 1,74,00,000/-
2. Amortization of Govt. Securities- Rs. 7,90,94,700/-

In the assessment order, the AO has not discussed about the provision for PA. However, in the profit and loss account, the same has been debited. AR contended that section 36(1)(viii) does not make any distinction between PA or NPA. The provision is allowable to the extent of total allowable limit i.e. Rs. 311.52 crores. Since, only Rs. 57.80 crore has been allowed as provision for NPA, this claim of Rs. 1.74 crore should be further allowed.

In this case of Delhi High Court has accepted the findings of ITAT that the claim of assessee should be examined when a revised computation has been filed and even if the assessee has not filed the revised return. Moreover, in the present appeal the assessing officer has entertained the petition of appellant on one of the issue of allowance of amortization of Government securities but disallowed the same in absence of the details. Complete details of amortization of Govt. Securities has been filed before me. On the same issue Hon'ble ITAT Patna Bench Patna allowed the claim the appellant case vide ITA No 52/pat/2018 for A.Y 2012-13 relying upon the CBDT instruction no. 17 of 2008. It was also argued that, in subsequent year i.e. A/Y-2015-16, the AO himself allowed the claim of amortization of Government Securities. Considering the totality of facts and circumstances of the case, and following the proposition of law decided by Delhi High Court, I allow the claim of Rs. 7,90,94,700/- and the same would be deducted from total income computed.

So far as provision for PA of Rs. 1,74,00,000/- is concerned, the appellant has Rs. 311.52 crores available u/s 36(1)(viii), out of which only Rs. 7.80 crores have been allowed, as discussed above. The provision for PA of Rs. 1,74,00,000/- is also allowed and should be deducted from the computed total income.

In the result, the appeal of appellant is allowed.”

4. Aggrieved with the order of the Ld. CIT(A), the Revenue has filed the appeal before the Tribunal.

5. Before us, it was submitted by the Ld. DR that the assessee had filed two documents but the Ld. AO did not allow the claim of bad debts u/s 36(1)(viii) of the Act. It was stated by the Ld. DR that the claim of the assessee is apparently correct. The RBI had notified the rural branches; however, the RBI documents for rural branches were not filed before the Ld. AO and it was mentioned that *prima facie* the deduction claimed was allowable. Out of the original claim of ₹57 Crore, the Ld.



AO allowed ₹14 Crore and the balance of ₹43 Crore was allowed by the Ld. CIT(A). The same issue arose in the AY 2013-14.

6. We have considered the facts of the case, the submissions made and the documents filed. The Ld. CIT(A) had accepted additional evidence in violation of the provisions of rule 46A as no opportunity was allowed to the Ld. AO to examine the same. Hence, the order of the Ld. CIT(A) is hereby set aside and the issue is remanded to the Ld. AO who shall examine the details to be furnished by the assessee in respect of the rural branches and allow the deduction u/s 36(1)(viii) of the Act as per law.

7. The 2nd ground of appeal relates to the provision of ₹ 44,70,128/- . Our attention was drawn to page 7 para 3 which has been extracted earlier. The Ld. AR requested that this issue also may be remanded to the Ld. AO for examination.

8. We have considered the facts of the case, the submissions made and the documents filed. In the interest of justice and fair play, this issue is also remanded to the Ld. AO. The assessee is directed to file the required evidence in support of the relief claimed before the Ld. AO, who shall grant an opportunity of being heard to the assessee, examine the evidence and decide as per law.

9. The 3rd ground of appeal relates to the Ld. CIT(A) erring in allowing the additional claim of ₹7,90,94,700/- made by the assessee on account of amortisation of government securities. Our attention was drawn to para 12 of the assessment order which is as under:

“12. The assessee vide letter dated 09.11.2016 stated that it had added back bank amortization of government securities amounting to Rs. 7,90,94,700/- which is also an allowable expenditure and prayed that the



same may be allowed as expenditure. The assessee's claim has been considered and it has been found that the assessee claim is not on the basis of a revised return rather on the basis of a high court decision. Without prejudice to the above it is clarified that as per RBI Guidelines the investment has been categorized in three categories viz. Held to maturity (HTM), Held for trading (HFT) and Available for sale (AFS) the amortization paid on HTM is allowable but the assessee did not support his claim with the calculation of HTM, HFT and AFS. It is required to be supported aggregated scrip wise. Hence, in absence of evidence the claim of the assessee is denied."

10. The Ld. AR claimed that a sum of ₹ 1,74,00,000/- was allowable out of performing assets in view of the decision of Hon'ble Delhi High Court in the case of CIT v Sam Global Securities Ltd. reported in 360 ITR at page 682 and as per the CBDT circular page 27 to 29 It was also stated that the claim was allowed in AY 2012-13.

11. The Ld. DR in respect of ground no. 3 stated that this was not claimed in the return of income and the Ld. CIT(A) had not asked for a remand report and requested that the matter may be remanded to the Ld. AO.

12. We have considered the facts of the case, the submissions made and the documents filed. Although, the principle of *res judicata* does not apply to income tax proceedings but the rule of consistency applies; therefore, in view of the fact that the claim has been allowed in AY 2012-13, the order of the Ld. CIT(A) is hereby set aside and this issue is also remanded to the Ld. AO for examination, who is directed to examine the claim and allow the deduction claimed as per law in accordance with the provisions of section 36(1)(viiia) of the Act which refers to bad and doubtful debts though it was argued before the Ld. CIT(A) that the section does not make any distinction between performing assets (PAs) and NPAs. The Ld. AO shall also examine the allowability of the claim



of amortization of government securities and allow the claim as per law. Hence, Ground No. 3 is also allowed for statistical purposes.

13. As regards Ground No. 4, since the assessee did not produce the required details, the addition was made. The assessee contended that the Hon'ble ITAT had allowed the relief in the appeal for AY 2012-13 and requested that the matter may be remanded to the Ld. AO who shall grant an opportunity of being heard to the assessee and allow the claim as per the law. We, therefore, remand this issue also before the Ld. AO to examine the evidence and allow as per law. Hence, for statistical purposes, all the grounds of appeal are partly allowed.

14. In the result, the appeal filed by the Revenue is partly allowed for statistical purposes.

Order pronounced in the open Court on 25th February, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 25.02.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **DCIT, Circle-1, Muzaffarpur.**
2. **M/s. Uttar Bihar Gramin Bank, Sharma Complex, Kalambagh Chowk, Muzaffarpur, Bihar, 842001.**
3. CIT(A)-2, Patna.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata