

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री कुल भारत, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI KUL BHARAT, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 280/JP/2009
निर्धारण वर्ष/Assessment Year : 2006-07

State Bank of Bikaner & Jaipur, Tilak Marg, C-Scheme, Jaipur.	बनाम Vs.	Dy. CIT, Circle-6, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AADCS 4750 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 438/JP/2009
निर्धारण वर्ष/Assessment Year : 2006-07

Dy. CIT, Circle-6, Jaipur	बनाम Vs.	State Bank of Bikaner & Jaipur, Tilak Marg, C-Scheme, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN No. AADCS 4750 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (CA)
राजस्व की ओर से / Revenue by : Smt. Rolly Agarwal (CIT)

सुनवाई की तारीख / Date of Hearing : 08.08.2017.
घोषणा की तारीख / Date of Pronouncement : 29/08/2017.

आदेश / ORDER

PER BENCH

Out of bunch of 21 Appeals, these two Cross Appeals one by the Assessee i.e. **ITA No. 280/JP/2009** & other by the Revenue's appeal in **ITA No. 438/JP/2009** pertaining to the Assessment Year 2006-07 are directed against the order of the Commissioner of Income Tax (Appeals)-II, Jaipur, dated - 27/03/2009. Since the appeals were heard together, therefore, are being disposed off by way of consolidated order for the sake of brevity.

280/JP/2009 & 438/JP/2009

2. First, we take up Appeals pertaining to the Assessment Year 2006-07 i.e. ITA No. 280/JP/2009 & 438/JP/2009.

280/JP/2009 (Assessee).

Assessee's appeal in ITA No. 280/JP/2009, the assessee has raised the following grounds of appeal:-

1. (i) Under the facts and circumstances of the case Ld. Commissioner of Income Tax (Appeals) has erred in upholding the applicability of the provision of Section 14A and thereby upholding the disallowance of proportionate interest and estimated administrative expenditure of the banking business.
 - (ii) Under the facts and circumstances of the case Ld. Commissioner of Income Tax (Appeals) has erred in quantifying the disallowance u/s 14A at the sum of Rs. 17,50,00,000/-.
 - (iii) Under the facts and circumstances of the case Ld. Commissioner of Income Tax (Appeals) has further erred in calculating the amount u/s 14A in terms of provisions of Rule 8D. He has also erred in applying these provisions of Rule 8D for the year under consideration as the same have been introduced on 24.03.2008.
2. Under the facts and circumstances of the case Ld. Commissioner of Income-tax (Appeals) has erred in confirming the addition of Rs. 47,33,34,127/- made by the assessing officer by treating the transfer of amount of un-reconciled outstanding entries originated upto 31.01.1999 in the inter branch amount to the profit and loss account as income of the assessee.
- 3(i) Under the facts and circumstances of the case Ld. Commissioner of Income-tax (Appeals) has erred in confirming the disallowance of prior period expenses of Rs. 35,916/-. He has further erred in not directing the AO to allow this claim in the preceding respective Assessment Years.
 - (ii) Under the facts and circumstances of the case Ld. Commissioner of Income-tax (Appeals) has also erred in not allowing the relief in respect of disallowance of alleged prior period rent expenses of Rs. 33,34,245/-.
4. Appellant craves to add, amend, alter or modify any of the ground of appeal.

5. The appropriate cost be awarded to the assessee.”

3. Facts in brief are that, the case of the assessee was picked up for scrutiny assessment and the assessment u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the Act) was framed vide order dated 20/02/2008. While framing the assessment the Assessing Officer made various additions on account of taking interest of tax-free debenture on accrual basis of Rs. 14,55,068/-, disallowance out of interest claimed exempt u/s 10(23G) of the Act of Rs. 3,87,30,043/-, disallowance made by invoking the provision of Section 14A of Rs. 12,92,57,568/-, disallowance of depreciation on securities- for valuing as per global method of Rs. 7,21,74,918/-, disallowance of amortization claim on securities held in HTM of Rs. 111,81,75,752/-, disallowance of prior period expenses of Rs. 33,70,161/-, capital receipts treated as income of Rs. 47,33,34,127/-. Aggrieved by this order, the assessee preferred an appeal before Ld. CIT(A), who after considering the submissions partly allowed the appeal. While partly allowing the appeal the Ld. CIT(A) deleted the addition made on account of interest on accrual basis. Ld. CIT(A) confirmed the addition made on account of disallowance of exemption claim of Rs. 3,87,30,043/- made u/s 10(23G) of the Act. The Ld. CIT(A) has further enhanced the disallowance made u/s 14A from Rs. 12,92,57,568/- to Rs. 17,50,00,000/- the Ld. CIT(A) deleted the addition made on account of disallowance of depreciation on securities on global method of Rs. 7,21,74,918/-.

3.1 Further the Ld. CIT(A) confirmed the addition of Rs. 111,81,75,752/- made on account of amortization of premium, however, the Ld. CIT(A) restricted the disallowance in respect of prior period expenses of Rs. 35,916/- out of total disallowance of Rs. 33,70,161/-. The Ld. CIT also confirmed the addition made on

account of capital receipts of Rs. 47,33,34,127/-. Against this order, both Revenue and Assessee are in appeal. In this appeal, the assessee has challenged correctness of action of Ld. CIT(A) for confirming the additions made by the AO.

4. Ground no. 1 (i) to (iii) is against the addition made on account of disallowance of expenditure made by invoking the provisions of section 14A.

4.1 Apropos to ground no. 1, Ld. Counsel for the assessee vehemently argued that the authorities below were not justified in invoking the provision of Section 14A.

4.2 Ld. Counsel submitted that Ld. CIT(A) has grossly erred in applying the provisions of Rule 8D. He contended that the Rule 8D, for the Income Tax Rule, 1962, became applicable only w.e.f. Assessment Year 2008-09 as held by Hon'ble

Bombay High Court in the case of Godrej & Boyce Manufacturing Co. Ltd.

Vs. DCIT 328 ITR 81.

He further submitted that, in present case, the assessee had made advances of Rs. 191.24 crores from which exempted interest income of Rs. 21.52 crores is earned. Further, the assessee made investment of Rs. 146.46 crores which yielded tax free interest of Rs. 1.19 crores. Further, investment of Rs. 188.29 crores yielded dividend income of Rs. 5.03 crores but profit on sale of such investment is taxable. Thus, the total investment which yielded exempt income as well as taxable income is Rs. 525.99 crores. He submitted that there is no relationship of borrowed funds for making such investment. In fact, this investment is made by the assessee out of interest free funds aggregating to Rs. 1,405.65 crores comprising of Share Capital of Rs. 50.00 crores and Reserves and Surplus of Rs. 1,355.65 crores. Thus, when interest free funds far exceeds the investment which has yielded exempted income and there is no finding of the AO that borrowed fund has been used in making such

investment, no disallowance of interest expenditure is called for. He submitted that under the identical facts the Hon'ble Jurisdictional High Court in the case of assessee pertaining to the Assessment Years 2000-01 to 2003-04 had deleted the disallowance. He further submitted that investment in debentures, bonds, mutual funds and shares which has yielded exempt income constitute stock in trade of the assessee. On sale of such stock, business income is assessed in the hands of the assessee. The assessee has not retained these investments with the intentions of earning exempt income rather the exempt income is incidental to the business of sale of shares/securities. Therefore, it cannot be said that expenditure incurred while acquiring these investments has to be apportioned to the extent of dividend income and that should be disallowed from deduction.

4.3 Ld. Counsel for the assessee has placed reliance on the Judgment of the **Hon'ble Punjab & Haryana High Court in case of PCIT vs. State Bank of Patiala 98 CCH 35**. Ld. Counsel for the assessee placed reliance on the decision of the Co-ordinate Bench of this Tribunal in the case of Fiduciary Shares and Stock Pvt. Ltd. vs. AIT 159 ITD 554 to buttress the contentions that the shares held as stock in trade should be excluded for the purpose of computing disallowance u/s 14A of the Act, since they could not be said to be "investment" made for the purpose of earning dividend income. Further, reliance is placed on Judgment of the Hon'ble the Karnataka High Court in the case of CCI Ltd. vs. JCIT 71 DTR 141/206 Taxman 563 to buttress the contention that provision of Section 14A is not applicable to the expenses incurred by the assessee in course of its business of share dealing merely because assessee is also having dividend income. He submitted that in view of

these decisions the disallowance as made by invoking the provision of Section 14A may be deleted.

4.4 On the contrary, Ld. Departmental Representatives opposed the submissions and supported the order of the authorities below. Ld. D/R submitted that the Assessing Officer has given a finding on fact that the assessee has earned exempt income to the tune of Rs, 23,72,13,375/-. The assessee has incurred interest expenditure of Rs. 9,72,87,83,151/- and in earned interest of Rs. 19,65,78,03,553/-. Therefore it cannot be assumed that the assessee has not incurred any expenditure for earning such exempt income. Ld. D/R therefore submitted that Ld. CIT(A) was therefore justified in making the disallowance u/s 14A. Ld. D/R submitted that the disallowance has to be on some basis and rule 8D prescribes certainly the basis of disallowance, for the expenditure related to the income not forming part of total income.

4.5 We have heard the rival contentions, perused the material available on record and gone through the order of the authorities below. We find that Ld. CIT(A) has made disallowance by computing as per Rule 8D of the Income Tax Rules 1962. In our view, the Ld. CIT(A) was not justified in computing the disallowance as per rule 8D, as the Rule 8D became operational from the A.Y. 2008-09. Further, there is not dispute with regard to the fact that similar disallowances were made u/s 14A in the assessment year 2000-01, 2002-03 and 2003-04 and the matter traveled up to the Hon'ble Rajasthan High Court. The Hon'ble High court in DB Income Tax Appeal Nos. 172/2008, 119/2010, 141/2010 and 142/2010 was pleased to held that in view of the decision of the Hon'ble Supreme Court in the case of Godrej Boyce Manufacturing Company Ltd. vs. DCIT. The order of disallowance was reversed.

The facts are identical in the present year and also there is no change into facts and circumstances. As the assessee bank is having sufficient interest free funds which has been accepted by both the authorities below. Therefore, respectfully following the Judgment of the Hon'ble Jurisdictional High Court, we hereby direct the AO to delete the disallowance. Thus, this ground of assessee's appeal is allowed.

5. Ground no. 2 is against confirming the addition of Rs. 47,33,34,127/- made by the Assessing Officer treating the transfer of amount of unreconciled outstanding entries originated upto 31.3.1999.

5.1 Ld. Counsel for the assessee reiterated the submissions as made in the written submissions. Ld. Counsel submitted that the R.B.I. vide its letter dated 19/12/2005 directed the assessee to transfer the net credit balance of unreconciled entries originated upto 31.3.1999 in the inter branch accounts to General Reserves. The Assessing Officer treated the amount of Rs. 47,33,34,127/- as income of the assessee chargeable to tax. The Ld. CIT(A) confirmed the addition by relying upon the judgment of the Hon'ble Supreme Court rendered in the case of CIT vs. T.V. Sundaram Iyengar & Sons 222 ITR 344. The Ld. Counsel submitted that the three important aspect about transfer of reconciled entries in the inter branch accounts. One, the assessee is to maintain complete details, the second; the assessee does not have any right to forfeit the amount. It has to honor any claim in this respect and the third, the amount so transferred cannot be distributed as dividend. This amount can be utilized only for meeting the claims in respect of these unreconciled entries.

5.2 Ld. Counsel submitted that no event has taken place during the year except passing of the entries in the books of accounts, which by itself cannot make any

liability as income unless covered by the provisions of section 41(1). Ld. Counsel for the assessee submitted that Ld. CIT(A) wrongly applied the ratio of the CIT Vs. T.V. Sundaram Iyengar & Sons Ltd. 222 ITR 344, as in that case the assessee has received deposits in the course of its business which were originally treated as capital receipts and some of the deposits were neither claimed by nor returned to the depositor. Ld. Counsel submitted that in that case the amount became the assessee's own money because of limitation or by any other statutory or contractual right. In the present case, the assessee holds money in trustee capacity. It has not got any right to forfeit the money nor it becomes assessee's own money so as to give it a right to utilize the same for its purpose. Since, the money is held by the assessee in trustee capacity, the liability does not become barred by limitation. Ld. Counsel further submitted that the Ld. CIT(A) himself accepted that it is not a case falling u/s 41(1). Thus, section 41(1) is not applicable.

5.3 Ld. Counsel further placed reliance on the following cases:-

CIT vs. Shoorji Vallabhdas & Co. 46 ITR 144(SC),

CIT Vs. Mogul Line Ltd. 46 ITR 590 (Bom),

Kedarnath Jute Manuf. Co. Ltd. Vs. CIT 82 ITR 363 (SC),

CIT Vs. Industrial Credit & Development Syndicate Ltd. 284 ITR 310 (Karnataka)(HC)

5.4 Ld. Counsel submitted that the ratio laid down in those cases it can be noticed that the amount credited to the Profit and Loss Account and thereafter appropriated to General Reserves is not the income of the assessee as it does not have any right over it to use/utilize. Ld. Counsel further placed reliance on the

decision of the Co-ordinate Bench rendered in the case of Punjab National Bank in ITA No. 2047/Del/2007 & 2873/Del/2007.

5.5 On the contrary, Ld. D/R opposed the submissions and submitted that whether this reconciliation represents the income would not depend on, how the assessee has treated the same. The assessee has not demonstrated what is the character of these reconciliation entries? Whether these were deposits or not if such entries were not claimed by the account holder certainly such receipts would be the income of the bank.

5.6 We have heard the rival contentions, perused the material available on record and gone through the order of the authorities below. Ld. Counsel for the assessee was not in a position to assist the bench with regard to exact character of the reconciled entries. He submitted that this reconciliation entries cannot be treated as income of the bank even if it is presumed that this money belonging to the depositors. The submissions of the assessee is not supported by any evidence demonstrating that the amount credited in the accounts of the assessee bank would be paid to the concerned account holder or alternatively such entries pertain to its own funds. In our considered view, it was incumbent upon the assessee's bank to demonstrate the nature of reconciliation entries in the absence of the same, the order of the AO cannot be disturbed. Accordingly, this ground of the assessee's appeal is rejected.

6. Ground no. 3(i) to (ii) is relate to prior period expenses.

6.1 Ld. Counsel for the assessee reiterated the submissions as made in the written submissions. The submissions of the Ld. Counsel for the assessee are reproduced as under:-

"Facts:-

1. *The AO disallowed prior period expenditure of Rs.33,70,161/- as reported in the tax audit report. The break up of this expenditure is as under:-*
 - i) *Rent of office buildings of Rs.33,34,245/-*
 - ii) *Audit Fees Rs.27,100/-*
 - iii) *Overtime expenses Rs. 8,816/-*

2. *The Ld. CIT(A) held that predominantly the disallowance refers to rent of office building of Rs.33,34,245/- which was pertaining to earlier period. However, it has to be appreciated that increase in the rent is as per rent agreement and therefore, the assessee was in a position to ascertain the liability related to rent increase which could be provided in the relevant accounting year to which it pertains. AO is therefore, directed to verify the available evidence and if the liability for the same was not ascertainable in earlier accounting year and has crystallized only in the account year relevant to present AY then only such deduction has to be allowed. In respect of overtime expenses and audit fees it is held that the claim which pertain to earlier year was ascertainable in relevant accounting year and since no such evidence could have been given that liability for the same has been crystallized only in the accounting year relevant to present assessment year and therefore, such disallowance of Rs.35,916/- is confirmed and for rest of the claim, the same is allowable subject to verification keeping in view the available evidence.*

Submission:-

1. *It is submitted that rent of office building for Rs.33,34,245/- though relate to earlier years has accounted for during the year under consideration as the liability to pay the enhanced rent crystallized during the year. This is verifiable from the following details:-*

S. No.	Branch	Amount (in Rs.)	Explanation
1.	C-Scheme, Jaipur	6,36,000	Rent of the branch premise was increased to Rs.95,000/- from Rs.42,000/- per month w.e.f 01.04.2004 vide letter dated 16.12.2004 with the condition that the increased rent shall be paid only when the landlord would get the premise renovated. Since the renovation was done in the year under consideration, therefore, the increased rent @ Rs.53,000/- p.m., i.e. Rs.6,36,000/- is paid during the year (PB 53-56) . Thus, the liability of payment of increased rent crystallized during in the year and therefore, it is not a prior period expenditure.
2.	Nehru Place, New Delhi	7,47,132	This amount was paid for the period 01.04.2000 to 31.03.2005 after the settlement is made with the landlords of these premises in pursuance to the order of the Delhi High Court dt.19.01.2005 where they directed the assessee to vacate the premises (PB 57-63) . Thus, the liability crystallized during the year and it is not a prior period expenditure.
3.	MR Jodhpur	6,29,920	Amount pertains to the arrear of rent of Rs.4,010/- from period April-1989 to March-2005 being sanctioned by the bank's committee in January, 06 i.e. in the year under consideration. Since the arrear of rent was approved during the year under consideration only therefore the liability to payment was crystallized in this year itself (PB 64-67) . Hence, the expenditure is not prior period and same is allowable.
4.	N.S. Road, Kolkata	5,81,768	The amount pertains to the assessee's share of arrear of Corporation Tax and surcharge on the rented premises for the period 01.04.2003 to 31.03.2005 demanded by the landlord of the premises in the year under consideration only on the demand of Kolkata Municipal Corporation. Since the amount was demanded by the Municipal Corporation and the landlord during the year under consideration, therefore, the liability of payment crystallized during the year and the same is not a period expense (PB 68-71) .
5.	Barielly	2,57,659	Amount pertains to the arrear of lease rent of the bank premises for the period 14.02.2002 to 31.03.2005. The amount was charged to expense during the year under consideration since the lease deed was executed during the year consideration only. (PB 72-73) . Hence the liability for expenditure is crystallized during the year under consideration only, therefore, same is not prior period expenditure.

6.	Shaharanpur	1,72,237	The amount is the arrear of rent of branch premises for the period September'2000 to March'2005 being paid on the order of Addl. District Judge, Shahranpur dated 10.01.2005. The amount was finally sanctioned by the Bank's authority during the year under consideration only. The liability for payment thus crystallized during the year and therefore, same is not prior period expense (PB 74-75) .
7.	T P Kanpur	97,200	Amount pertains to the arrear of increase rent for period 15.12.1999 to 31.03.2005. The permission for the execution of the lease deed for higher rent was granted during the year under consideration only, therefore, the liability for payment crystallized in the year under consideration. Hence, the expenditure is not prior period (PB 76-81) .
8.	Machind	50,520	Amount pertains to the arrear of increased rent by Rs.4,035/- for 01.04.2004 to 31.03.2005. The lease deed for the increased rental was executed during the year under consideration, therefore, the liability for payment crystallized in the year under consideration. Hence, the expenditure is not prior period (PB 82) .
9.	Sheo	49,000	Amount pertains to the arrear of increased rent as the lease deed for the increased rental was executed during the year under consideration, therefore, liability for payment crystallized in the year under consideration. Hence, the same is not prior period (PB 83-84) .
10	Ahore	43,821	Amount does not pertains to the prior period rent expenses rather it is sum total of various petty expenses on account of stationery, newspaper, conveyance etc. which has wrongly classified by the auditors as prior period rent. Details are enclosed at PB 85-86 . Since other expenses of similar nature were allowed by the AO, therefore, same be allowed.
11.	Balotra	33,988	Amount pertains to the arrear of increased rent as the lease deed for the increased rental was executed during the year under consideration, therefore, liability for payment crystallized in the year under consideration. Hence, the expenditure is not prior period (PB 87-90) .
12.	Raniwara	15,000	Amount pertains to the rent of ATM Room for the year 2005-06. Since the lease deed for the same was executed in January, 06, therefore, the liability for payment crystallized in the year under consideration. Hence, the expenditure is not prior period

			(PB 91-94).
13.	Ramdeora	9,000	Amount pertains to the arrear of increased rent of ATM premise @ Rs.1,500 per month for the period 01.10.2004 to 31.03.2005. Since the increased rent was sanctioned during the year under consideration only, therefore, the liability for payment crystallized in the year under consideration. Hence, the expenditure is not prior period (PB 95-96).
14	Jhiri	8,000	There was leakage in the rented premises due to which rent of the premises from Nov, 04 to Feb, 05 was withheld by the assessee. Later on approval amount was paid in the year under consideration. Being the approval was sanctioned in the year under consideration, therefore, the amount is not a prior period expense (PB Pg.97-99).
15	Phalsoond	3,000	Rent pertains to the previous year for which sanction was granted in AY 2005-06, hence, the same is not prior period expense.
Total		33,34,245	

From the above table it can be noted that the liability for payment of rent crystallized during the year itself and therefore, the same is not a prior period expenses. The Ld. CIT(A) even after examining all these evidences, which were already before the AO, has directed him to verify the available evidences instead of directing him to allow the same. Hence, the order of Ld. CIT(A) to this extent is erroneous and the AO be directed to allow the expenditure claimed by the assessee.

2. *So far as the expenses of Rs.35,916/- is concerned, out of it Rs.8,816/- pertains to overtime work of employees in the last week of March, 2006 due to finalization of accounts for the period ended on 31.03.2005. Sample vouchers are at **PB 100 -104**. The overtime expenses are booked as and when claims are made against the assessee to pay/ reimburse the same. The claims were made in April, 2005 and were accordingly paid. Thus, the liability has crystallized on raising of the claim and therefore the same is to be allowed in the year under consideration. In respect of audit fees, the bill is settled in April and June 2005*

(PB 105-107) and therefore, the same is allowable in the year under consideration.

3. Without prejudice to above, it is submitted that the tax rate being same, if these expenses are not allowed during the year, then direction be given to allow the same in the previous year to which it pertain. Further, the expenditure of Rs.14,05,671/- which is claimed as previous year expenditure in AY 2007-08 be directed to be allowed in the year under consideration. If this course is adopted, it would only lead to unnecessary paper work without any revenue effect. The **Supreme Court in case of CIT Vs. Excel Industries Ltd. 93 DTR 457** has held that when the rate of tax remained the same in present assessment year as well as in the subsequent AY, the dispute raised by the revenue is entirely academic or at best may have a minor tax effect, there is no need for the revenue to continue with the litigation where it was quite clear that not only was it fruitless (on merits) but also that it may not have added anything much to the public office."

6.2 Ld. Departmental Representatives opposed the submissions, and supported the Assessment Order.

6.3 We have heard the rival contentions, perused the material available on record and gone through the order of the authorities below.

6.4 Ld. CIT(A) has decided this issue in para 8.3 of his order that reads as under:-

"8.3 I have considered facts of the case and arguments taken by Sh. Jhanwar and Sh. Parwal quite carefully. It is seen that predominantly this disallowance refers to rent of office building of Rs. 33,34,245/- which was pertaining to earlier period. However, it has to be appreciated that increase in the rent as per rent agreement and therefore, the banker was in a position to ascertain the liability related to rent increase which could have been provided in the relevant accounting year to which it pertains. AO is therefore,

directed to verify the available evidence and if the liability for the same was not ascertainable in earlier amounting year and has crystallized only in the accounting year relevant to present A.Y. then only such deduction has to be allowed. I agree with AO that over time expenses claim of Rs. 8,816/- and audit fee claim of Rs. 27,100/- which was pertaining to earlier year was ascertainable in relevant accounting year and since no such evidence could have been given that liability for the same has been crystallized only in the accounting year relevant to present assessment year and therefore, such disallowance of Rs. 35,916/- is confirmed and for rest of the claim the same is allowable subject to aforesaid verification keeping in view the available evidence.”

6.5 The contention of the assessee is that the expenditure relates to payment of rent and the authorities below failed to appreciate the fact that this payment was made on the basis of either the rent was increased in the year under consideration or in pursuance of the order of the courts.

In our view, where the payment is made by the order of the court or increased by the agreement in the year under consideration that expenditure certainly crystallized in the year under consideration. Therefore, in view of the material placed in the paper book, we are of the view that Ld. CIT(A) ought not to have restored this issue to the file of the AO for verification as the evidence placed are sufficient to infer that these liabilities related to rent crystallized in the year under appeal. Therefore, we hereby direct the AO to allow the expenditure. Hence, this ground no. 3(i) is allowed. Ground no. 3 (ii) relates to expenditure of audit fees and over time expenses in our view the Ld. CIT(A) rightly disallowed the same as such expenditure

related to the earlier years and duly crystallized during that year. This ground of the assessee's appeal is rejected.

7. **Ground no. 4** is general in nature and needs no separate adjudication.

8. **Ground no. 5** is prayer for cost. Under the facts and the circumstances of the present case the parties to bear the respective cost. This ground of the assessee's appeal is dismissed.

9. In the result, appeal of the assessee in ITA No. 280/JP/2009 is partly allowed.

ITA No. 438/JP/2009 (Revenue)

10. Now, we take up Revenue's appeal in ITA No. 438/JP/2009 pertaining to Assessment Year 2006-07.

The Revenue has raised the following grounds of appeal:-

"On the facts and in the circumstances of the cases and in law the Ld. CIT(A) has erred in:-

1. Holding that interest on Government and other securities has to be included in the income on due basis.
2. Deleting the addition of Rs. 14,55,068/- made by the AO on account of disallowance of deduction claimed for interest on tax free debenture on due basis.
3. Deleting the addition of Rs. 7,21,74,918/- made by the AO on account of valuation of investment by adopting global method of valuation of securities as against category wise method of valuation followed by the assessee.
4. Deleting the addition of Rs. 1,11,81,75,752/- made by the AO on account of disallowance of amortization in respect of permanent diminution in the value of securities held by the Bank under the "Head to Maturity" category."

11. At the outset, Ld. Counsel for the assessee submitted that the issues raised in the appeal are squarely covered in the favour of the assessee by the Judgments of

Hon'ble Jurisdictional High Court relating to earlier years. Ld. D/R supported the order of the authorities below.

12. **Ground no. 1**, is against the holding that interest on Government and other securities has to be included in the income on due basis.

12.1 Ld. D/R supported the order of the Assessing Officer.

12.2 On the contrary, Ld. Counsel for the assessee supported the order of the Ld. CIT(A) and submitted that the issue is squarely covered in favour of the assessee by the decision of the Hon'ble Jurisdictional High court, in assessee's own case pertaining to A.Y. 1997-98 to 2000-01 and 2004-05.

12.3 We have heard the rival contentions of the parties. The undisputed facts is that the issue has been decided in favour of the assessee by the Hon'ble High Court of Rajasthan in Appeals pertaining to the Assessment Year 1997-98 to 2000-01 & 2004-05 is not controverted by the Revenue. Ld. Counsel has invited our attention to the Judgment of Hon'ble High Court rendered in D.B. Income Tax Appeal No. 185/2014. Therefore, we do not see any reason to interfere into the finding of the Ld. CIT(A) same is hereby affirmed. This ground of Revenue's appeal is rejected.

13. **Ground no. 2**, is against deleting the addition of Rs. 14,55,068/- made by the AO on account of disallowance of deduction claimed for interest on tax free debenture on due basis.

13.1 Ld. D/R supported the order of the AO and submitted that Ld. CIT(A) was not justified in deleting the addition.

13.2 However, Ld. Counsel for the assessee submitted that this issue is covered in the favour of the assessee by the earlier decision of the Tribunal and order of the Tribunal confirmed by the Hon'ble Rajasthan High Court.

13.3 We have heard the rival contentions, perused the material available on record. The Hon'ble Rajasthan High court in assessee's own case in DB Income Tax Appeal No. 185/2014 formulated the substantial question of law whether on facts and circumstances of the case, the ITAT was justified in deleting the addition of Rs. 4,56,60,998/- made by the AO by taking the interest income by Government and other securities on accrual basis instead of due basis as claimed by the assessee. Admittedly, this question is answered against the Revenue. Therefore, we do not see any reason to interfere into the finding of the Ld. CIT(A), same is hereby affirmed. Thus, Ground no.2 of the appeal is dismissed.

14. Ground no. 3, is against deleting the addition of Rs. 7,21,74,918/- made by the AO on account of valuation of investment by adopting global method of valuation of securities against category wise method of valuation followed by the assessee.

14.1 Ld. D/R supported the order of the authorities below.

14.2 On the contrary, Ld. Counsel for the assessee supported the order of the Ld. CIT(A) and submitted that issue is covered by the decision of the Hon'ble High Court in assessee's own case.

14.3 We have heard the rival contentions, perused the material available on record. The Ld. CIT(A) by following its earlier years pertaining to the AY 2005-06 deleted the addition. We find that this issue was also decided by the Hon'ble Rajasthan High court in the assessee own case in DB Income Tax Appeal No. 27/2015 in favour of the assessee. Therefore, we do not see any reason to interfere into the finding of the Ld. CIT(A), same is hereby affirmed. This ground of Revenue's appeal is dismissed.

15. **Ground no. 4**, is against deleting the addition of Rs. 1,11,81,75,752/- made by the AO on account of disallowance of amortization in respect of permanent diminution in the value of securities held by the Bank under the "Head of Maturity" category".

15.1 Ld. D/R supported the order of the AO and submitted that Ld. CIT(A) was not justified in deleting the addition.

15.2 On the contrary, Ld. Counsel for the assessee submitted that similar addition was made in the AY 2005-06, the Hon'ble Rajasthan High Court in D.B. Income Tax Appeal No. 27/2015, decided the issue in favour of the assessee. The contention of the assessee is not controverted by the Revenue and has also not brought to our notice any other contrary binding precedent. Therefore, we do not see any reason to interfere into the finding of the Ld. CIT(A), same is hereby affirmed. This ground of Revenue's appeal is dismissed.

16. In the combined result, Appeal of the **Assessee in ITA No. 280/JP/2009** is partly allowed & **Revenue's Appeal in ITA No. 438/JP/2009** is dismissed.

Order pronounced in the open court Tuesday, the 29th day of August 2017.

Sd/-
(विक्रम सिंह यादव)
(VIKRAM SINGH YADAV)
लेखा सदस्य/Accountant Member
Jaipur

Sd/-
(कुल भारत)
(KUL BHARAT)
न्यायिक सदस्य/Judicial Member

Dated:- 29/08/2017.

Pooja/

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

1. The Appellant- State Bank of Bikaner & Jaipur, Jaipur.
2. The Respondent- Dy. CIT, Circle-6, Jaipur.
3. The CIT(A).

4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 280/JP/2009 & 438/JP/2009)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar

