

आयकर अपीलीय अधीकरण, न्यायपीठ – “B” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
 (समक्ष) श्री ऐ. टी. वर्की, न्यायीक सदस्य एवं डॉ. अर्जुन लाल सैनी, लेखा सदस्य)
 [Before Shri A. T. Varkey, JM & Dr. A. L. Saini, AM]

I.T.A. No. 805/Kol/2017
Assessment Year: 2004-05

Deputy Commissioner of Income-tax/Assistant Commissioner of Income-tax, LTU-1, Kolkata.	Vs.	United Bank of India (PAN: AAACU5624P)
Appellant		Respondent

&

CO. No. 46/Kol/2017
In I.T.A. No. 805/Kol/2017
Assessment Year: 2004-05

United Bank of India	Vs.	Assistant Commissioner of Income-tax, LTU-1, Kolkata.
Cross Objector		Respondent

Date of Hearing	19.09.2018
Date of Pronouncement	27.09.2018
For the Revenue	Md. Usman, CIT, DR
For the Assessee/Cross Objector	Shri Soumitra Choudhury, Advocate

ORDER

Per Shri A.T.Varkey, JM

The appeal preferred by the revenue and the Cross Objection preferred by the assessee are against the order of Ld. CIT(A)-17, Kolkata dated 23.12.2016 for AY 2004-05.

2. At the outset itself, it was brought to our notice by the Ld. AR that the only issue raised by the revenue is against the action of the Ld. CIT(A) in allowing the claim of the

assessee bank by following the order of the Tribunal dated 30.12.2015 in assessee's own case in ITA No. 1916/Kol/2012 and ITA No. 113/Kol/2013 for AY 2009-10 wherein the Tribunal held that the provisions of section 115JB of the Act read with explanation 3 to sec. 115JB of the Act is not applicable. We note that the Ld. CIT(A) has followed the order of the Tribunal on the very same issue and has given relief to the assessee bank. We note that in assessee's own case for AY 2003-04 in ITA No. 1178/Kol/2007 and also in assessee's own case for AY 2009-10 in ITA No. 1916/Kol/2012 and the Tribunal had also for AY 2002-03 has been consistently following that the provision of sec. 115JB of the Act are not applicable in the case of the assessee bank and further held that the amendment brought in sec. 115JB of the Act read with explanation 3 thereof by the Finance Act, 2012 is applicable only w.e.f. AY 2013-14 onwards in accordance to the notes to Finance Act, 2012. We note that the Ld. CIT(A) has followed the judicial precedent laid by this Tribunal, therefore, we are inclined to uphold his action and, therefore, dismiss the appeal of the revenue.

3. Cross objection of the assessee is supportive in nature and, therefore, is dismissed being infructuous.

4. In the result, both the appeal of revenue and Cross Objection of assessee are dismissed.

Order is pronounced in the open court on 27th September, 2018.

Sd/-

(Dr. A. L. Saini)
Accountant Member

Sd/-

(Aby. T. Varkey)
Judicial Member

Dated : 27th September, 2018

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – DCIT/ACIT, LTU-1, Kolkata
2. Respondent – M/s. United Bank of India, 16, Old Court House Street, Dalhousie, Kolkata-700 001.
3. CIT(A)-17, Kolkata (sent through e-mail)
4. CIT, Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)

/True Copy,

By order,

Sr. Pvt. Secretary