

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AHMEDABAD BENCH 'B', AHMEDABAD**

[Coram: Justice P P Bhatt, President, and Pramod Kumar, Vice President]

ITA No. 701/Ahd/2018
Assessment year: 2014-15

The Deputy Commissioner of Income-tax **Appellant**
Circle -1 (2), Ahmedabad

Vs

The Gujarat State Co-op. Bank Limited **Respondent**
*Shahkar Bhavan, Relief Road,
Ahmedabad [PAN : AAAAT 9774 F]*

Appearances by

Mudit Nagpal, *for the appellant*

Tushar Hemani & Parimal B Parmar, *for the respondent*

Date of concluding the hearing : 04.06.2019

Date of pronouncement : 04.06.2019

O R D E R

Per Pramod Kumar, Vice President:

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 24th January 2018 passed by the by the CIT(A)-10, Ahmedabad in the matter of assessment under section 143(3) of the Income-tax Act, 1961, for the assessment year 2014-15, on the following grounds:-

"1) That the Id. CIT(A) has erred in law and on facts in deleting the addition of Rs.2,74,27,223/- on account of disallowance of amortization of premium.

2) That the Id. CIT(A) has substantially erred by not considering the fact that the investment in Government Securities made was in Capital Nature as the same is held for maturity under the category HTM.

3) That the Id. CIT(A) has erred in law and on facts by deleting the addition without appreciating the fact that the bank itself has categorized the Government security as investment and not stock in trade of bank."

2. When the appeal was called out for hearing, learned representatives fairly agreed that the above issue is fully covered, in favour of the assessee, by the decision dated 27.09.2018 of the co-ordinate bench in assessee's own case for the

immediately preceding assessment year. Vide the aforesaid order, the co-ordinate bench has, inter alia, observed as follows:-

“3. Learned representative fairly agree that the above issue is now covered, in favour of the assessee, by Hon’ble jurisdictional High Court’s judgment in the case of CIT vs. Rajkot Dist. Co-operative Bank Ltd (Tax Appeal No.56 of 2013; judgment dated 10.02.2014) wherein Their Lordships have, inter alia, observed as follows:-

“5. The learned counsel Shri P.G. Desai for the appellant vehemently contended that the Tribunal committed serious error in overruling the decision of the CIT (Appeals), who had given detailed reasons. He submitted that the investment was in the nature of capital investment in the hands of the assessee as held by the CIT (Appeals). The CBDT Circular dated November 26, 2008 would not apply. There were further instructions which would govern the situation.

6. On the other hand, the learned counsel Shri Tushar Hemani for the respondent placed heavy reliance on the said CBDT Circular dated November 26, 2008 and contended that the benefit of amortisation had to be granted. The assessee as a cooperative bank was bound by the RBI directives. As per such directives, the assessee had to invest certain amounts in Government securities and to hold the same till maturity. In the process of acquisition, if there was any premium paid on the face value of the security, the loss had to be amortised. Paragraph (vii) of the CBDT Circular No.17 of 2008 dated November 26, 2008 would apply. Such instruction reads as under :

“(vii) As per RBI guidelines dated 16th October, 2000, the investment portfolio of the banks is required to be classified under three categories viz. Held to Maturity (HTM), Held for Trading (HFT) and Available for Sale (AFS). Investments classified under HTM category need not be marked to market and are carried at acquisition cost unless these are more than the face value, in which case the premium should be amortised over the period remaining to maturity. In the case of HFT and AFT securities forming stock-in-trade of the bank, the depreciation / appreciation is to be aggregated scrip-wise and only net depreciation, if any, is required to be provided for in the accounts. The latest guidelines of the RBI may be referred to for allowing any such claims.”

7. The instructions clearly provide for amortisation of premium paid on acquisition of securities when the same are acquired at the rate higher than the face value. Such amortisation would have to be for the

remaining period of maturity. This precisely the Tribunal had directed in the impugned order. Though contended, no contrary instructions of CBDT are brought to our notice. The instruction in question having been issued under section 119(2) of the Income-tax Act, 1961, would bind the Revenue. No question of law, therefore, arises."

4. *Respectfully following the judgment of Hon'ble jurisdictional High Court (supra), we approve the conclusions arrived at by the learned CIT(A) and declined to interfere in the matter."*

3. We see no reasons to take any other view of the matter than the view so taken by the co-ordinate bench. Respectfully following the co-ordinate bench decision in assessee's own case for the immediately preceding assessment year, we approve the conclusions arrived at by the learned CIT(A) and decline to interfere in the matter.

4. In the result, the appeal is dismissed. Pronounced in the open court today on the 4th day of June, 2019.

Sd/-

Sd/-

Justice P P Bhatt
(President)

Pramod Kumar
(Vice President)

Ahmedabad, dated the 4th day of June, 2019

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Copies to: (1) The appellant (2) The respondent
(3) CIT (4) CIT(A)
(5) DR (6) Guard File

By order etc

True Copy

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad