

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'Friday' NEW DELHI**

**BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT
&
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.4105/Del/2018
Assessment Year: 2009-10**

The Sonapat Urban Coop. Bank Ltd. New Sabji Mandi, Sonapat, Haryana. PAN: AAAAT0374M	vs	ACIT, Sonapat Circle, Sonapat.
--	----	-----------------------------------

Applicant by	Shri V. Rajkumar, Advocate
Revenue by	Ms Rinku Singh, Sr. DR

Date of Hearing	19.7.2019
Date of Pronouncement	24 .7.2019

ORDER

PER K. NARASIMHA CHARY, JM

Aggrieved by the order dated 2.4.2018 passed by the Commissioner of Income-tax (Appeals) Rohtak {"CIT(A)} for the Asstt. Year 2009-10 in Appeal No.433/16-17, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is a cooperative bank and has been engaged in the business of banking. For the Asstt. Year 2009-10,

they have filed their return of income on 25.9.2010 declaring taxable income of Rs.2,31,74,310/-. Assessment u/s 143(3)/148 was completed by order dated 26.9.2016 making an addition of Rs.20,60,619/- u/s 14A read with Rule 8D of the Income-tax Act, 1961 (“the Act”).

3. Assessee preferred appeal before the CIT(A), who by order dated 2.4.2018 dismissed the same confirming the addition. Hence, assessee preferred this appeal.

3. Today the assessee sought early hearing of the matter stating that in assessee’s own case for the year 2010-11 under similar set of facts and circumstances, a coordinate bench of this Tribunal in ITA No.3023/Del/2015 vide order dated 28.2.2019 decided the issue in favour of the assessee and the present case in hand is fully covered by the said decision. We heard the learned DR also, who does not dispute the issue being covered by the order of the Tribunal in Asstt. Year 2010-11.

4. We have perused the record in the light of the order dated 28.2.2019 in ITA No.3023/Del.2015 and find that a coordinate bench of this Tribunal while dealing with similar set of facts and circumstances and relying upon the judgment of the Hon’ble Punjab & Harayana High Court in the case of CIT vs Hero Cycles, (2010) 189 Taxman 50 and CIT vs Max India (2016) 388 ITR 81 (P&H), recorded a finding of fact that a presumption would arise that investment would be out of the interest free funds generated or available with the company and there are sufficient funds to made the investment. Similar is the plea and case in this matter also.

5. We, therefore, while respectfully following the decision of a coordinate bench of this Tribunal in assessee’s own case in ITA No.3023/Del/2015, which is in accordance with the binding precedent of the Punjab &

Haryana High Court in the case of CIT vs Max India (supra), find it difficult to sustain the addition. We accordingly delete the same.

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

Order pronounced in the Open Court on July, 2019.

Sd/-
(PRAMOD KUMAR)
VICE PRESIDENT

sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: 24th July, 2019
VJ

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Draft dictated on	19.7.2019
Draft placed before author	19.7.2019
Draft proposed & placed before the second member	
Draft discussed/approved by Second Member.	
Approved Draft comes to the Sr.PS/PS	
Kept for pronouncement on	
Date of uploading order on the website	
File sent to the Bench Clerk	
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	

