

**IN THE INCOME TAX APPELLATE TRIBUNAL "D", BENCH
MUMBAI**

**BEFORE SHRI M.BALAGANESH, AM
&
SHRI RAM LAL NEGI, JM**

**ITA No.1992/Mum/2018
(Assessment Year :2013-14)**

Asst. Commissioner of Income Tax- Circle 2(3)(1) R.No.552, 5 th Floor, Aayakar Bhavan M.K.Road, Mumbai – 400 020	Vs.	Dena Bank 17-B, Dena Bank Building Horniman Circle, Fort, Mumbai – 400 023
PAN/GIR No.AAACD4249B		
(Appellant)	..	(Respondent)

Revenue by	Shri Lakshmi V. Prasad
Assessee by	Shri S. Ananthan & Mrs. Lalitha Rameswaran
Date of Hearing	27/08/2019
Date of Pronouncement	04/09/2019

आदेश / ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.1992/Mum/2018 for A.Y. 2013-14 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-6, Mumbai in appeal No.CIT(A)-6/IT-204/41/2016-17 dated 31/01/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) r.w.s. 92CA of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 30/12/2016 by the Id. Asst. Commissioner of Income Tax 2(3)(1), Mumbai (hereinafter referred to as Id. AO).

2. The first issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in deleting the addition made by the Id. AO on account of broken period interest relying on the decision of his predecessor in assessee's own case for A.Yrs.2010-11 to 2012-13 in the facts and circumstances of the case.

3. We have heard rival submissions. We find that both the parties before us mutually agreed that this issue is already settled by the order of this Tribunal in assessee's own case in ITA No.5259/Mum/2016 for the A.Y.2012-13 dated 22/12/2017 wherein it was held as under:-

“10. The second ground pertains to addition on account of broken period interest paid by the appellant for acquiring securities. As pointed out by the Ld. counsel for the assessee, the Ld. CIT(A) has decided this ground of appeal in favour of the assessee by following the decision of the Ld. CIT(A) passed in the assessee's own case for the A.Y. 2010-11 and 2011-12. We further notice that the CIT (A) has decided this issue in the A.Y. 2010-11 and 2011-12 relying on the various judgments including the judgment of the Hon'ble Supreme Court delivered in [CIT vs. City Bank and Hon'ble Bombay High Court in American Express International Banking Corporation vs. CIT 258 ITR 601 \(Bom\)](#) and the decisions of the coordinate Benches rendered in appellant's own case ITA No. 2337/M/2011 dated 10.04.2013 for A.Y. 2006-07 and ITA NO. 3676/M/2012 dated 09.04.2014 for A.Y. 2008-09. The findings of Ld. CIT (A) read as under:-

5.2. I have carefully considered the facts of the case on the submission of appellant. I have also gone through the decisions relied upon by Ld. AR and the AO. It is seen that similar issue has come up for consideration in appellant's own case in the immediately preceding A.Ys. 2010-11 and 2011-12. After considering the facts of the case and submissions of the appellant, the issue has been decided in favour of the appellant vide para 5.3 of Appeal No. CIT (A)-6/IT-26 & IT- 188/2013-14 dated 28.12.2015. The relevant portion of the order is reproduced hereunder for ready reference.:-

5.3 Be that as it may, I find that this issue has been decided in favour of the appellant by the Hon'ble Supreme Court in the case of [CIT v. Citibank NA in Civil Appeal No. 1549 of 2006 dated 12.08.2008](#). Further, Hon'ble Bombay High Court in the case of [American Express](#)

International Banking Corporation (supra) has also decided this issue in favour of the appellant. It was also submitted that Hon'ble ITAT, 'D' Bench, Mumbai in appellant's own case has decided this issue in its favour in ITA No. 2337/M/2011 dated 10.04.2013 for A.Y. 2006-07 and ITA NO. 3676/M/2012 dated 09.04.2014 for A.Y. 2008-09. Respectfully following the above decisions of Hon'ble Supreme Court, Jurisdictional High Court and Hon'ble ITAT, it is held that the broken period interest paid by the appellant is allowable as deduction in computing the total income. The ground is accordingly, allowed.

5.3 Since the facts are similar, following the reasons given in appellant's own case for A.Y. 2010-11 and 2011-12 (supra), no disallowance is called for in respect of broken period interest on securities. Accordingly, the addition of Rs. 11,40,18,861/- on account of broken period interest for acquiring securities is deleted. The ground is allowed."

11. Since, the Ld. CIT (A) has decided the said issue by following the decision of CIT (A) in assessee's own appeal for the A.Y. 2010-11 and 2011-12. We further notice that the Ld. CIT (A) has decided this issue by following the judgment of Hon'ble Supreme Court in the case of [CIT vs. Citibank](#) delivered in Civil Appeal No. 1549 of 2006 dated 12.08.2008 and the judgment of Hon'ble Bombay High Court in [American Express International Banking Corporation \(supra\)](#) and the decision of ITAT, Mumbai passed in the assessee's own case, ITA No. 2337/M/2011 dated 10/04/2013 for the A.Y. 2006-07 and ITA NO. 3676/M/2012 dated 09/04/2014 for the A.Y. 2008-09. Hence, we do not find any reason to interfere with the order passed by the Ld. CIT (A). Accordingly, we uphold the findings of the Ld. CIT (A) and dismiss this ground of appeal of the revenue."

3.1. We find that the Id. CIT(A) had placed reliance on the order of his Id. Predecessor in assessee's own case for earlier years which has been finally approved by this Tribunal. Hence, we find no infirmity in the order of the Id. CIT(A) in this regard. Accordingly, the Ground No.1 raised by the revenue is dismissed.

4. Ground Nos. 2 & 3 raised by the revenue is with regard to deletion of disallowance made by the Id. CIT(A) u/s.14A of the Act. We find that the Id. AO had made disallowance u/s.14A of the Act r.w.r. 8D(2) of the rules by applying second and third limb thereon and computed the

disallowance at Rs.17,85,84,572/- after reducing the amount already disallowed by the assessee in the sum of Rs.9 lakhs. The Id. CIT(A) by following the order of his predecessor in assessee's own case for A.Y.2010-11 to 2012-13 which in turn placed reliance on the order of this Tribunal in assessee's own case for A.Y.2008-09 in ITA No.3676/Mum/2012 dated 09/04/2014 wherein a categorical finding was recorded that assessee is having sufficient own funds to make investments in various securities and accordingly, no disallowance of interest need to be made under second limb of rule 8D(2) of the rules. Since this issue is already covered in favour of the assessee on facts and in view of the fact that no contrary facts were brought on record by the Id. DR, we find that the order passed by the Id. CIT(A) does not call for any interference with regard to deletion of interest under second limb of rule 8D(2) of the rules.

4.1. With regard to disallowance of indirect expenses by applying the third limb of Rule 8D(2) of the rules, the Id. AR stated before us that the same is not pressed before us. The said statement made by the Id. AR is reckoned as statement made from Bar, accordingly, the disallowance made in third limb of rule 8D(2) (iii) of the rules is sustained. Accordingly, Ground Nos.2 & 3 raised by the revenue are partly allowed.

4. In the result, appeal of the Revenue is partly allowed.

Order pronounced in the open court on this 04/09/2019

Sd/-
(RAM LAL NEGI)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 04/09/2019

KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai