

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'A' BENCH, KOLKATA  
(Virtual Court)**

**(Before Sri J. Sudhakar Reddy, Accountant Member & Sri S.S. Godara, Judicial Member)**

**I.T.A. No. 2043/Kol/2018  
Assessment Year: 2007-08**

**ACIT, Circle-1, LTU, Kolkata.....Appellant**

**Vs.**

**M/s. United Bank of India.....Respondent  
[PAN: AAACU 5624 P]**

**Appearances by:**

*Sh. Ram Bilash Meena, CIT(DR), appeared on behalf of the Revenue.*

*Sh. Soumitra Choudhury, Adv., appeared on behalf of the Assessee.*

Date of concluding the hearing : September 29<sup>th</sup>, 2020

Date of pronouncing the order : October 21<sup>st</sup>, 2020

**ORDER**

**Per J. Sudhakar Reddy, AM:**

This is an appeal filed by the Revenue directed against the order of the Learned Commissioner of Income Tax (Appeals)-23, Kolkata, [hereinafter the "CIT(A)"], passed u/s. 250 of the Income Tax Act, 1961 (the 'Act'), dated 08.08.2018 for the Assessment Year 2007-08 on the following grounds:

*"1) The Ld. CIT(A) has erred in law and facts by deleting the addition of Rs. 1,39,67,00,094/- made by the Assessing Officer in its order passed u/s. 147/251/143(3) of the Income Tax Act, 1961 dated 28.01.2013 for the Assessment Year 2007-08.*

*2) The Ld. CIT(A) has erred in law and facts by holding that the provisions of section 115JB of the Income Tax Act, 1961 are not applicable in the case of assessee for the assessment year 2007-08.*

*3) Whether on the facts in the circumstances of the case the Ld. CIT(A) has erred in law as well as on fact in placing reliance on the judgement of Hon'ble ITAT in the case of assessee in ITA No.199/Kol/2011 dated 21.11.2013 where the decision rendered is on the provisions of section 115JB read with explanation 3 to section 115JB of the Income Tax Act. 1961 is pending in the Honourable High Court of Calcutta.*

*4) Whether on the facts in the circumstances of the case the Ld. CIT(A) has erred in law as well as on fact in placing reliance on the judgement of Hon'ble ITAT in the case of assessee in ITA No. 199/Ko 1/2011 dated 21.11.2013 where the decision has been rendered on misappreciation the provisions of section 115JB read with explanation 3 to section 115JB of the*

*Income Tax Act, 1961 and ignoring the inclusive definition of company in section 115JB of the Income Tax Act, 1961.*

*5) The Ld. CIT(A) has erred in law and facts by deleting the addition made by the Assessing Officer amounting to Rs. 1,39,67,00,094/- being the Provision for depreciation on investments debited to the Profit & Loss Account which is not allowable as per clause (i) to Explanation 1 of section 115JB of the Income Tax Act, 1961.*

*6) The Ld. CIT(A) has erred in law and facts by not deciding the case of computation of adjusted profit on merits in this order.*

*7) That appellant craves for leave to add, delete and/or modify any of the grounds of appeal before or at the time of hearing."*

2. After hearing rival contentions we find that the ld. CIT(A) at para 4, page 2 held as follows:

*"4. Ground No.2 to 4 in appeal are regarding reopening of the assessment. The assessment was reopened on the ground that the appellant had wrongly claimed provision for diminution in the value of assets of Rs. 139,67,00,000/-for the purpose of computing of book profit u/s.115JB. On this issue, the Hon'ble ITAT vide its order dated 21.11.2013, in ITA No.199/Kol/2011, has held that the provisions of section 115JB of the Income Tax Act,1961 are not applicable in the case of the assessee in the impugned year of appeal."*

3. We find no infirmity in this order of the ld. CIT(A), as he has followed and applied the order of the Tribunal in the assessee's own case on this very same issue for AY 2007-08.

4. In the result, the appeal of the Revenue is dismissed.

***Kolkata, the 21<sup>st</sup> October, 2020.***

Sd/-  
[S.S. Godara]  
Judicial Member

Sd/-  
[J. Sudhakar Reddy]  
Accountant Member

Dated: 21.10.2020  
*Bidhan*

*Copy of the order forwarded to:*

1. ***ACIT, Circle-1, LTU, Kolkata***
2. ***M/s. United Bank of India, 16, Old Court House Street, Dalhousie, Kolkata-700 001.***
3. CIT(A)-23, Kolkata. (sent through mail)
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy

By order

Assistant Registrar  
ITAT, Kolkata Benches