

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.351/Asr/2015  
Assessment Year: 2010-11**

The Pathankot Hindu Urban Co-operative Bank Ltd. Dalhousie Road, Pathankot. [PAN: AA ACT7869D] <b>(Appellant)</b>	<b>Vs.</b>	Dy. CIT, Circle-VI, Pathankot.  <b>(Respondent)</b>
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<b>Appellant by</b>	<b>None.</b>
<b>Respondent by</b>	<b>Sh. Ghansham Sharma, Sr.DR</b>

<b>Date of Hearing</b>	<b>13.09.2022</b>
<b>Date of Pronouncement</b>	<b>11.11.2022</b>

**ORDER**

**Per:Anikesh Banerjee, JM:**

The instant appeal of the assessee is directed against the order of the Id. Commissioner of Income Tax(Appeals)-2,Amaritsar, [in brevity the CIT(A)] bearing appeal No.97/2013-14, date of order 12.03.2015, the order passed u/s 250(6) of the Income Tax Act 1961, [in brevity the Act] for A.Y. 2010-11.The impugned order was emanated from the order of the Id. Dy. Commissioner of

Income Tax, Circle-VI, Pathankot, (in brevity the AO) order passed u/s 143(3) of the Act date of order 22.03.2013.

2. The brief fact of the case is that the assessee is that the assessee is a cooperative bank and claimed the depreciation or diminution and value of investment or securities held under “*available for sale*”. The value of diminution was as per the circular of the Reserve Bank of India (in short RBI) on investment made by Primary Urban Cooperative Bank Ltd. the date of order 01.07.2019. The claim was made at the end of the year. So there is no effect in the books of account. The amount was finally deducted from the computation of income during filing of return. u/s 139. The value of diminution amount of Rs.22,13,000/- which was duly added back with the total income of the assessee. Aggrieved assessee filed an appeal before the Id. CIT(A) against the order of Id. AO. The Id. CIT(A) upheld the order of the Id. AO.

3. Aggrieved assessee filed an appeal before us.

4. During hearing none was present on behalf of the assessee. The matter is taken up for hearing with the consent of Id. Sr. DR. The Id. Counsel of the assessee had filed the paper book which is kept in record.

5. The assessee is an urban cooperative bank and made the investment primary urban cooperative bank ltd. The investment is reflected in the books of account.

The assessee made the valuation of the investment at the end of the year on the basis of the “**cost and market value whichever is the lower**”. The assessee took the chance and valued the saleable investment under the market price. Copy of the valuation report is available in the **APB page 11**. The assessee has relied on the **Circular no. 665, CBDT 05/10/1993**. The relevant part of the circular is extracted as below:

*“4. The question whether a particular item of investment in securities constitutes stock-in-trade or a capital asset is a question of fact. In fact, the banks are generally governed by the instructions of the Reserve Bank of India from time to time with regard to the classification of assets and also the accounting standards for investments. The Board has, therefore, decided that the Assessing Officers should determine on the facts and circumstances of each case as to whether any particular security constitutes stock-in-trade or investment taking into account the guidelines issued by the Reserve Bank of India in this regard from time to time. “*

6. The assessee further relied on the different judgments of the Hon’ble Apex Court which are extracted as below:

1. Decision of Supreme Court of India in the case of **United Commercial Bank vs. CIT reported in (1999)240 ITR 0355** [Refer Page No.19 & 20 of the paper-book] in which it was held as under:-

*"For valuing the closing stock, it is open to the assessee to value it at the cost or market value, whichever is lower; a method of accounting adopted by the taxpayer consistently and regularly cannot be discarded by the Departmental authorities on the view that he should have adopted a different method of keeping accounts or of valuation. "*

2. Decision of Punjab & Haryana High Court in the case of **CIT, Panchkula vs. State Urban Development Society, in ITA No. 210 of 2011, order dated 19/10/2011** [Refer Page No.24 to 27 of the paper-book] in which it was held as under:-

*"Reflection in Profit & Loss account towards income is not determinative. The entries in books of accounts do not decide the nature of receipts. Grants cannot be treated as income of the assessee. "*

6.1 The Id. Sr. DR vehemently argued and relied on the order of both the revenue authorities.

7. We consider the rival submission and relied on the documents available in the records and the order of both the revenue authorities. After a thoughtful consideration of the documents the assessee claimed the loss on diminution value of securities as well as stock. The main grievance of the revenue is that this

particular value was not taken in the books of accounts. But factually correct that the circular of the CBDT has directed the acceptance proposition of the diminution value on basis of the factual aspect. The Hon'ble Apex Court has not in favour of the revenue. The assessee in the paper book has annexed the investment fluctuation reserve in **APB, page no. 3** and the copy of account of provision **page nos. 14 and 15**. In both the lower authorities, the assessee explained the issue and copy of the letter is annexed in **page no. 16 of APB**. After a thoughtful consideration of this fact and considering the factual matrix the depreciation or diminution value of investment a security is an acceptable claim under the Income tax Act. Only the reflection in the books of account during the year cannot be the reason for non-acceptance of the depreciation. The depreciation in stock or the selling investment has a clear effect on the net profit which is after all taken into the computation of the assessee. The provision of depreciation / diminution in the value of investment is acted through "investment fluctuation reserve account". Considering the entire factual matrix and respectfully consider the order of the Hon'ble Apex Court we set aside the order of the appellate authority. We set-aside the matter to the Id. CIT(A). The issue should be considered on basis the above-mentioned discussion. Needless to say, that the Id. CIT(A) shall provide proper and adequate opportunity of being heard to the assessee in set aside proceedings. The evidences/explanations

submitted by assessee in its defence shall be admitted by the Id. CIT(A), and adjudicated by the Id. CIT(A) on merits in accordance with law. We order accordingly.

8. In the result, the appeal in ITA No. **351/Asr/2015** is allowed for statistical purposes.

**Order pronounced in the open court on 11.11.2022**

**Sd/-**

**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**

**(ANIKESH BANERJEE)**  
**Judicial Member**

**AKV**

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order