IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F" MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA No. 1437/MUM/2023
&
ITA No. 1438/MUM/2023
Assessment Year: 2009-10
&
ITA No. 1439/MUM/2023
Assessment Year: 2013-14

M/s Union Bank of India Union Bank Bhavan, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai- 400021 **PAN NO. AAACU 0564 G** **Appellant**	***Vs.***	Deputy Commissioner of Income Tax, Circle- (LTU)-2, 29th Floor, World Trade Centre, Cuffe Parade, Mumbai- 400005 **Respondent**

Assessee by	:	C Naresh
Revenue by	:	Shri Ankush Kapoor, DR
Date of Hearing	:	10/07/2023
Date of pronouncement	:	25/07/2023

ORDER

PER OM PRAKASH KANT, AM

These three appeals by the assessee, two for assessment year (AY) 2009-10 and one for AY 2013-14, are directed against the three separate orders, all dated 20.03.2023, passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal

Centre, Delhi [in short 'the Ld. CIT(A)']. The appeals for assessment year 2009-10 are arising from two different orders of Assessing Officer giving effect to the order of the ld CIT(A) and Income Tax appellate Tribunal (ITAT) respectively. As common grounds have been raised in these appeals, same were heard together and disposed off by way of this consolidated order for convenience.

2. Both the parties agreed for taking the appeal in ITA No. 1438/M/2023 (AY 2009-10) for adjudication firstly. Accordingly, we have taken up the said appeal for adjudication. The grounds raised by the assessee are reproduced below:

> ITA No. 1438/M/2023 for AY 2009-10
>
> grounds of appeal
>
> *1. On the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the order of AO restricting the deduction u/s 36(1)(viia) to provision made during the year contrary to the directions of Hon'ble ITAT.*
>
> *1.1 Without prejudice to the above, on the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the order of AO excluding provision made fart in respect of Standard advances and restructured debts while considering the provision made during the year by overlooking the binding decision of hon'ble ITAT Mumbai in the case of State Bank of India (ITA 3644/Mum/2016)*
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> *2. On the facts and in the circumstances of the case, the Ld CIT(A) erred in remitting back the issue of charging of interest u/s 234D without deciding on appellants ground that no interest u/s 234D can be charged where there is no excess refund granted u/s 143(1).*
>
> *Your appellant craves leave to add, to amend, and / or vary the grounds of appeal before or at the time of hearing.*

> *3. On the facts and in the circumstances of the case, the Ld CIT(A) erred in confirming the order of AO of not granting interest for the month of payment /refund of tax by, considering Rule 119A (a) instead of 119 (b) which is applicable to the instant case.*
>
> *Your appellant craves leave to add, to amend, and / or vary the grounds of appeal before or at the time of hearing.*

3. This appeal by the assessee in ITA No. 1438/M/2023 for assessment year 2009-10 is arising from the order of the ld CIT(A) passed in relation to the order of the Assessing Officer dated 28/03/2019 giving effect to two orders, **firstly** , the order of the ld CIT(A) dated 26/12/2017 , (which was passed in relation to order u/s 147 dated 18/03/2015 of the Assessing Officer) and **secondly**, ITAT order in ITA No. 1827/Mum/2017 dated 3/10/2018.

4. The ground No. 1 of the appeal relates to deduction under section 36(1)(viia) of the Act in relation to claim for provision for bad and doubtful debt in the books of accounts of the assessee. The assessee in its return of income claimed deduction u/s 36(1)(viia) amounting to Rs. 823,83,17,597/- which was consisted of two amount, firstly 10% of average rural advances amounting to Rs. 688,51,50,209/- and secondly 7.5% of gross total income before chapter VIA deduction amounting to Rs. 143,31,67,388/-. The Assessing Officer, however, restricted the claim of deduction to the extent of provision for bad and doubtful debt made during the year amounting to Rs. 729.89 Crores. This amount included provision for standard assets and restructured debt also. The ld CIT(A) directed to allow the claim as per earlier orders. On further appeal,

the issue of claim of deduction u/s 36(1)(viia) of the Act for provision for bad and doubtful debt for the year under consideration, was decided by the ITAT in ITA No. 6922/M/2013 dated 17/12/2015 restoring the issue of claim of assessee u/s 36(1)(viia) of the Act to the file of the Assessing Officer for deciding in the light of the decision of **Tribunal (Ahmedabad bench) in Sarvodya Sahkari Bank Ltd in ITA no. 779/Ahd/2011**. In the Sarvodya Sahkari Bank Ltd (supra), the Tribunal held that claim for provision for bad and doubtful debt is not to be restricted to the provision made during the year but to be allowed to the extent of the amount of provision for bad and doubtful debt available at the year end in books of account.

4.1 The issue of claim of provision for bad and doubtful debt was again racked up by the Assessing Officer in reassessment order dated 18/3/2015, wherein he held that standard asset and restructured debt are not part of non-performing assets (NPA) and therefore not eligible for deduction u/s 36(1)(viia) of the Act. On further appeal, the Ld. CIT(A) restricted the claim of deduction under section 36(1)(viia) of the Act to the extent of provision made during the year for bad and doubtful debt amounting to Rs. 555,29,90,155/-. On further appeal, though the Tribunal vide order dated 12/07/2019 in ITA No. 1803/Mum/2018 , upheld the validity of the reassessment, but on merit, the Tribunal restored the matter back to the file of the Assessing Officer observing as under:

> *41. Coming to the merits i.e., the deduction u/s. 36(1)(viia) of the Act, we observe that since the decision as to whether the claim for deduction u/s. 36(1)(viia) has to be allowed on the provision made in the Books of Accounts or as per the statute provided in the section itself in the original assessment proceedings has bearing on the issue of allowance u/s. 36(1)(viia) in the reopened assessment, the issue thus in a way became consequential and should go back to the Assessing Officer for fresh adjudication depending upon the decision taken by the Assessing Officer in the original assessment proceedings which were set aside by the Tribunal in ITA.No. 6922/Mum/2013 by order dated 17.12.2015. Thus, we restore this issue on merits i.e. allowability u/s. 36(1)(viia) of the Act in the reassessment proceedings to the file of the Assessing Officer to decide afresh in view of our above observations. This ground is allowed for statistical purpose*

4.1.1The Assessing Officer gave effect to the order of the Ld CIT(A) vide order dated 28/03/2019 and accordingly restricted the claim of 36(1)(viia) of the Act to the extent of Rs. 555,29,90,155/-. The assessee again preferred appeal against the said effect giving order before the Ld. CIT(A), which has been disposed by the Ld. CIT(A) vide DIN (document identification number) and order No. ITBA/NFAC/S/250/2022-23/1050973878(1) dated 23/03/2023, against which the appeal of the assessee has been listed before us at ITA No. 1437/Mum/2023.

4.1.2 The Assessing Officer also passed order on 27/09/2021 in consequent to the of the order of Tribunal dated 12/07/2019 passed in ITA No. 1803/Mum/2018. In this consequential order dated 27/09/2021 also, the Assessing Officer restricted the claim for deduction u/s 36(1)(viia) to the extent of provision during the

year for bad and doubtful debt in respect of non-performing assets (NPA) in the books of accounts, which amounted to Rs. 555,29,90, 155/-. On further appeal, the Ld. CIT(A) in his order dated 23/3/2023 [DIN ITBA/NFAC/250/2022-23/1050973878(1)] also upheld the claim to the extent of provision for bad and doubtful debt [non-performing asset(NPA)] provided in books of accounts for year under consideration and rejected the claim for including the standard assets and restructured debt as part of non-performing assets. The relevant finding of the Ld. CIT(A) is reproduced as under:

> *"5.1.7 The Hon'ble ITAT has remitted back issue of disallowance u/s 36)(1)(viia) to the Assessing Officer, in the light of findings of the ITAT, Ahmedabad Bench in the case of DCIT Vs. Sarvodaya Sahakari Bank Ltd., in ITA No.779(Ahd) of 2011. The Assessing Officer verified the issue and noticed that the appellant has provisions for bad and doubtful debts u/s 36(1)(vila) which also includes "Provisions on standard assets" and "provision on restructured debts" which do not qualify for bad and doubtful debts.*
>
> *5.1.8 The issue of providing provisions on standard assets and provision on restructured debts was not discussed in the decision of Hon'ble ITAT, Ahmedabad Bench in the case of DCIT Vs. Sarvodaya Sahakari Bank Ltd., in ITA No.779 (Ahd) of 2011. The Assessing Officer has restricted the provision for bad and doubtful debts without considering provision on standard assets and restructured debts as they do not form part of NPAs. The decisions of Hon'ble ITAT Ahmedabad in Bharuch Dist. Central Co-op. Bank Ltd. VS ITO, Ward-1, Bharuch reported in [2013] 36 taxmann.com 517 and Hon'ble ITAT Bench Vishakapatnam in ACIT Circle- 2 (1), Guntur vs. Chaitanya Godavari Grameena Bank reported in [2018] 93 taxmann.com 400 has held that standard assets cannot be*

> *treated as bad and doubtful debts for the purpose of claiming allowance u/s 36(1)(viia) of the I.T Act.*
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> *5.1.9 Considering the above, this appellate authority is of the view that restriction of provision of doubtful debts to Rs.555,29,90,155/- as provided in the books for non-performing assets does not require any interference and the order of the AO needs to be sustained."*

4.1.3 The assessee preferred further appeal against the said order of the Ld. CIT(A), which has been listed before us at ITA No. 1438/Mum/2023, i.e. present appeal taken up by us for adjudication.

4.2 The learned counsel of the assessee before us referred to ground Nos. 1 and 1.1 of the appeal and submitted that the issue in dispute, whether the claim of deduction u/s 36(1)(viia) in respect of provision of the bad and doubtful debt should be restricted to the extent of provision made during the year under consideration or same should be allowed to the extent of provision available at the year end, has been already adjudicated by the Tribunal in order dated 20/06/2023 in ITA No. 923/Mum/2023, which has arisen from the order of the Assessing Officer dated 22/12/2017 giving effect to the order of the Tribunal in ITA No. 6922/M/2013 dated 17/12/2015. The relevant finding of the Tribunal(supra) is accordingly reproduced as under:

> *8. We heard the parties and perused the material on record. The assessee has in the first round of appeal contended the issue of restricting the deduction allowable under section 36(1)(viia) to the provision made during the previous year on the ground that the earlier year decision in assessee's own case*

(AY 2005-06) in which the decision of the Punjab and Haryana High Court in the case of State Bank of Patiala v. CIT [2005] 272 ITR 54/143 Taxman 196 has been followed cannot be applied since the said decision has been distinguished by the Ahmadabad Bench of the Tribunal in the case of Sarvodaya Sahakari Bank Ltd (supra) where the Hon'ble Tribunal has held that the deduction under section 36(1)(viia) should be allowed to the extent the provision for bad and doubtful debts available in the books of accounts irrespective of whether the provision is made in the current previous year or in the preceding previous years. Therefore the assessee had prayed that the issue needs to be examined in the light of the decision of the Ahmadabad Bench of the Tribunal in the case of Sarvodaya Sahakari Bank Ltd (supra). Accordingly the issue for the year under consideration was remanded by the Hon'ble Tribunal to the assessing officer with a direction to consider the issue of amount allowable under section 36(1)(viia) in the light of the above decision of the Ahmadabad Tribunal.

9. We notice that the lower authorities while considering the issue afresh in the remanded proceedings restricted the deduction on the ground that the amount of provision made towards bad and doubtful debts in the books of accounts for the purpose of section 36(1)(viia) should exclude the provision made towards standard assets. The ld DR while relying on the order of the CIT(A) submitted that the provision made on standard assets cannot be considered as provision made for bad and doubtful debts since the assessee itself has classified the asset as good and recoverable i.e. standard asset. The ld DR also drew our attention to the decision relied on by the CIT(A) in the case of ACIT vs Chaitanya Godavari Grameena Bank (2018) 93 Taxmann.com 400 (Vishakapatnam-Trib) where the issue of provision made towards bad and doubtful debts against various class of assets is discussed in detail to hold that the provision made against standard assets cannot be considered as provision made towards bad and doubtful assets for the purpose of deduction u/s.36(1)(viia). Be that as may be, in the given case the Hon'ble Tribunal has given a direction to the Assessing Officer to consider the issue afresh in the light of

the decision of Ahmadabad Bench of the Tribunal in the case of Sarvodaya Sahakari Bank Ltd (supra) whereby the Assessing Officer is required to look into the total provision towards bad and doubtful debts as per the books of accounts of the assessee irrespective whether the provision is made in the current year or previous year and allow the claim u/s.36(1)(viia) accordingly. However we notice that the Assessing Officer in the order giving effect has not discussed anything in this regard but has proceeded to restrict the claim based on a different ground. We notice that the revenue had not taken any action against the directions of the Tribunal as per the original order, and therefore the directions have crystallized which means that the Assessing Officer has no alternate course except to follow the directions. Accordingly, the Assessing Officer in the remand proceedings ought to have verified the availability of sufficiency of provisions as per the books of accounts of the assessee and allow the claim u/s.36(1)(viia). ***As has been pointed out by the ld AR, the assessee is carrying a provision of Rs.1549 crores as on 31/03/2009 and the claim made during the year under consideration is Rs.820.28 crores. Therefore respectfully following the decision of the Ahmadabad Bench of the Tribunal in the case of Sarvodaya Sahakari Bank Ltd (supra), we are of the view that no disallowance is warranted since the assessee is having sufficient provision towards bad and doubtful debts in the books of accounts and delete the disallowance made by restricting the amount claimed as a deduction u/s.36(1)(viia) of the Act by the Assessing Officer in this regard***.

(emphasis supplied externally)

4.3 We have heard rival submission of the parties on the issue in dispute and perused the relevant material on record. We find that Tribunal in ITA No. 1803/Mum/2018 , which is the appeal of the assessee arising from reassessment order , held that determination of claim 36(1)(viia) of the Act in the assessment year under consideration is consequential to the finding of the Tribunal in

appeals arising from the regular assessment order . The Tribunal in appeal arising from regular assessment order in ITA No. 923/Mum/2023 has already allowed the claim of deduction under section 36(1)(viia) of the Act as the assessee was carrying a provision Rs. 1549 crores at the year end, which being more than the claim of deduction of Rs. 820.28 crores u/s 36(1)(viia) of the Act, therefore no disallowance was required to be made and accordingly deleted the addition. Since, the Tribunal (supra) has already allowed claim of deduction of the assessee u/s 36(1)(viia) of the Act, accordingly, following the finding of the Tribunal (supra) , we direct the Assessing Officer to allow the claim of the deduction under section 36(1)(viia) to the extent of provision for bad and doubtful debt available at the year end as held by the Tribunal in ITA No. 923/Mum/2023.

4.4 Before us, the learned counsel of the assessee further submitted that if the claim of deduction under section 36(1)(viia) of the Act is allowed to the extent of provision for bad and doubtful debt available in the books of account, the assessee shall not press for inclusion of standard asset and restructured debt as part of non-performing assets (NPA). We note the assessment of the year under consideration was reopened for the reason that the assessee claimed inclusion of standard asset and restructured debt as NPA for working out provision for bad and doubtful debt made in the year under consideration. Since now the assessee has forgone this claim for the year under consideration, we direct the Assessing

Officer to verify this fact and exclude the standard asset and restructured debt as part of provision for bad and doubtful debt and allow the claim of the assessee for deduction under section 36(1)(viia) as discussed above.

4.5 The ground No.1 Of the appeal of the assessee is allowed, whereas ground No. 1.1 of the appeal of the assessee is dismissed as not pressed.

5. As far as ground no 2 of the appeal is concerned, the grievance of the assessee is that it is not liable for interest u/s 234B of the Act whereas the Ld. CIT(A) has directed the Assessing Officer to verify the interest charged while giving effect to the appellate order and directed for necessary modification in accordance with the provision u/s 234B of the Act.

5.1 We have heard rival submission of the parties. The Section 234B of the Act prescribe that if amount refunded u/s 143(1) of the Act exceeds the amount refundable on regular assessment, then assessee shall be liable to pay simple interest at the rate of one half % on the whole or the excess amount so refunded for every month and part of the months comprised in the period from date of the grant refund to the date of such regular assessment. In our opinion it is matter of verification whether the refund granted to the assessee u/s 143(1) exceed the refund granted on regular assessment. Before us no details of refund claimed and allowed u/s 143 (1) of the Act and refund which was due and allowed under

regular assessment / reassessment , has been provided .Therefore, we do not find any infirmity in the direction of Ld.CIT(A) issued for verification. We again direct the Assessing Officer to comply with the direction of ld CIT(A) , if not already complied. Accordingly, the ground of appeal of the assessee is allowed for statistical purpose.

ITA No. 1437/Mum/2023

6. Now, we take up appeal of the assessee in ITA No. 1437/Mum/2013 for AY 2009-10. The grounds raised are reproduced as under:

> *1. On the facts and in the circumstances of the case, the Ld CIT(A) erred in confirming the order of AO restricting the deduction u/s 36(1)(viia) to the extent of provision made during the year inspite of specific directions of Hon'ble ITAT to follow the decision of Hon'ble ITAT in the case of Sarvodaya Sahakarai Bank (ITA No 779 AHD 2011).*
>
> *2. On the facts and in the circumstances of the case, the Ld CIT(A) erred in remitting back the issue of charging of interest u/s 234D without deciding on appellants ground that no interest u/s 234D can be charged where there is no excess refund granted u/s 143(1).*
>
> *3. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the order of AO of not granting interest for the month of payment/refund of tax by considering Rule 119A(a) instead of 119(b) which is applicable to the instant case.*

6.1 The ground no. 1 is in relation to claim u/s 36(1)(viia) of the Act. This ground is arising from the order of assessing officer giving effect to the order of ld CIT(A) dated 26/12/2017 passed in relation

to reassessment proceedings. We have already noted in ITA No. 1438/Mum/2023 , that the ld CIT(A) in appeal order dated 26/12/2017 against the reassessment order, rejected the claim for including standard assets and restricted debt as part of NPA and restricted the claim of deduction u/s 36(1)(viia) of the Act to the extent of Rs. 555,29,90,155/-. The Assessing officer in order date 28/03/2019, where he has given effect to order of ld CIT(A) dated 26/12/2017 , taken amount of deduction at Rs. 555,29,90,155/-. In this effect giving order, the Assessing officer has not given any finding on the issue of claim u/s 36(1)(viia) except computing the tax liability post the order of ld CIT(A). Since the assessee had already filed appeal against the order of ld CIT(A) dated 26/12/2017 before the ITAT , so there was no justification for filing the appeal before the ld CIT(A) against effect giving order of passed by the Assessing Officer. This is infructuous exercise when The Tribunal in order dated 2/07/2019 in ITA No. 1803/Mum/2018 already adjudicated the grievance of the assessee against the order of CIT(A) dated 26/12/2017 and restored the matter back to the AO.

6.2. The Assessing officer passed an order consequential to the direction of ITAT dated 12/07/2019. Against that consequential order of AO , the assessee again preferred appeal before CIT(A) , but the CIT(A) vide his order dated 20/03/23 upheld the AO. The appeal preferred against the said order of the CIT(A) dated 23/3/23 has already been adjudicated by us in ITA No. 1438/Mum/2023.

6.3 In the circumstances, we note that on same issue the assessee has preferred two appeals, **firstly**, against effect giving order of ld CIT(A) and **secondly,** against the effect giving order of ITAT. The appeal against effect giving order of ld CIT(A) on the issue of deduction u/s 36(1)(viia) of the Act is a futile exercise as in that order the assessing officer has not adjudicated the issue of deduction u/s 36(1)(viia) of the Act. We have observed from the chronological details of the various orders passed by AO and appellate authorities for the year under consideration that in respect of regular assessment proceedings also similar multiple appeals were filed by the assessee, without any justification. We accordingly dismiss this ground of appeal as infructuous.

7. In Ground No. 2, the assessee is seeking reversal of the direction of Ld. CIT(A) in remitting the issue of interest under section 234D of the Act. We find that identical issue was raised in ITA No. 1438/Mum/2023, which we have restored back to the file of the Assessing Officer and therefore this ground is rendered infructuous. Accordingly the ground No. two of the appeals dismissed.

8. In ground No. 3(three), the assessee is seeking invoking of rule 119A(b) of the Act for computation of interest under the provision of the Act. Before us the Ld. Counsel of the assessee submitted that in the case of the assessee interest u/s 244A of the Act has been computed on the monthly basis rather than annual basis and therefore provision of section 119A(b) are applicable.

8.1 We have heard rival submission of the parties on the issue in dispute and perused the relevant material on record. In the case the assessee before the Ld. CIT(A) submitted that the Assessing Officer has granted interest under section 244A of the Act amounting to ₹86,18,85,655/- as against interest of ₹88,17,94,596/-computed by the assessee. According to the assessee, the difference had arisen on account of interest not being granted for the months of payment/collection of tax/granting of refund. The learned Counsel submitted that as per rule 119A of the Act, where interest is to be calculated for every month or part of a month, any fraction of months shall be deemed to be a full month and interest shall be granted accordingly and therefore the Assessing Officer should have granted the interest for the month of payment/collection of tax/granting of refund also. The Ld. CIT(A) has reproduced provisions of section 244A and section 119A of the Act, and thereafter held that interest u/s 244A was to calculated on annual basis, therefore the Assessing Officer has correctly rounded off the interest to whole month and ignored the fraction of the month. The relevant part of the decision of the Ld. CIT(A) is reproduced as under:

> *"5.3.3. Section 244A reads as under:*
>
> *Interest on refunds.*
>
> *244A. (1) Where refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely :-*

(a) where the refund is out of any tax collected at source under section 206C or paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period,-

(i) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under sub-section (1) of section 139; or

(i) from the date of fumishing of return of income to the date on which the refund is granted, in a case not covered under sub-clause (i);

(aa) where the refund is out of any tax paid under section 140A, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period, from the date of furnishing of retur of income or payment of tax, whichever is later. to the date on which the refund is granted:

Provided that no interest under clause (a) or clause (a) shall be payable, if the amount of refund is less than ten per cent of the tax as determined under sub-section (1) of section 143 or on regular assessment;

(b) in any other case, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.-For the purposes of this clause, "date of payment of tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 156 is paid in excess of such demand.

(1A) In a case where a refund arises as @ result of giving effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264, wholly or partly. otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled Sauce amount of refund calcuated ar the alb of tired per cont per annum. for the poros to receive, in addition to the interest payable under sub-

section (1), an additional interest on beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted.

Rule 119A lavs down the procedure for calculation of interest payable to the assessee as under:

Procedure to be followed in calculating interest

[119A. In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act,-

(a) where interest is to be calculated on annual basis, the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored; and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated;
(b) where the interest is to be calculated for every month or part of a month comprised in a period, any fraction of a month shall be deemed to be a full month and the interest shall be so calculated;
(c) the amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees shall be ignored and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated.]

5.3.4 ***As per Rule 119A(a), where interest is to be calculated on annual basis, the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored; and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated. The interest of the appellant comes under Section 244(1) and thus any fraction of a month is being ignored as per Rule 119A(a) of I.T Rules****."*

(emphasis supplied externally)

8.2 We have heard rival submission of the parties and perused the relevant material on record. On perusal provisions of section 244A of the Act, we observe that legislature has provided for computation of the interest for every month or part of the month comprised in the period. Therefore, the finding of the Ld. CIT(A) that interest u/s 244A was to be calculated on annual basis is incorrect. Accordingly, we set aside the finding of the Ld. CIT(A) on the issue in dispute and restore the matter back to the file of the Assessing Officer for computing of the interest under section 244A of the Act in view of the provisions of section 119A(b) of the Act. The ground of the appeal of the assessee is accordingly allowed for statistical purposes.

ITA No. 1439/M/2023 AY 2013-14

9. Now, we take up the appeal of the assessee for assessment year 2013-14 in ITA No. 1439/M/2023. The grounds raised are reproduced as under:-

> ***Grounds of appeal***
> *1. On the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the order of AO of taxing the recovery in respect of bad debts written off ignoring the binding decision of Hon'ble ITAT Mumbai in the case of State Bank of India (ITA No.3644/Mum/2016*
>
> *2. On the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the order of AO in not granting interest for the month of payment /refund of tax by considering Rule 119A (a) instead of Rule 119A (b) which is applicable to the instant case.*

> *Your appellant craves leave to add, to amend, and / or vary the grounds of appeal before or at the time of hearing*

9.1 The ground no. 1 of the present appeal is identical to ground No. one of ITA No. 1438/Mum/2023 and therefore it is decided *mutatis mutandis*. The ground No. two of the appeal of the assessee is identical to the ground No. 3 of the appeal in ITA No. 1437/Mum/2023, therefore same is decided *mutatis mutandis.*

10. In the result, all the three appeals of the assessee are allowed partly for statistical purpose.

Order pronounced in the open Court on 25/07/2023.

Sd/-	**Sd/-**
(KAVITHA RAJAGOPAL)	**(OM PRAKASH KANT)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Mumbai;
Dated: 25/07/2023
Shubham P. Lohar

<u>Copy of the Order forwarded to</u> :

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

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai