IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH : BANGALORE

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA Nos.388 & 389/Bang/2023
Assessment years : 2014-15 & 2015-16

M/s. Canara Bank (erstwhile Syndicate Bank), FM Wing, Head Office, 112, J.C. Road, Bangalore – 560 002. **PAN: AAACC 6106G**	Vs.	The Deputy Commissioner of Income Tax, Circle 2(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri S. Ananthan, CA
Respondent by	:	Ms. Neera Malhotra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	12.09.2023
Date of Pronouncement	:	26.09.2023

O R D E R

Per Bench

These two appeals by the assessee are against the separate DIN & Order Nos.ITBA/NFAC/S/250/2022-23/1051369425(1) for AY 2014-15 and DIN & Order Nos.ITBA/NFAC/S/250/2022-23/1051374644(1) for AY 2014-15 dated 27.3.2023 passed by the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC] u/s. 250 of the Act. Since common issues are involved in both these

appeals, they are heard together and disposed of by this order for the sake of brevity and convenience.

2. Similar grounds are raised in both these appeals except figures, the grounds for AY 2014-15 are reproduced below:-

> "1. The order of the learned CIT(A) is against the law and facts of the case.
>
> 2. The learned CIT(A) erred in upholding the re-opening of the assessment u/s 147 and learned CIT(A) failed to appreciate the fact that the re-opening of Assessment u/s 147 was bad and not tenable in law.
>
> 2.1. The learned CIT(A) failed to appreciate the fact that the re-opening was mere change of opinion as such, bad in law.
>
> 2.2. The learned CIT(A) failed to appreciate the fact that the re-opening was based on existing material and evidences and not based on any new evidences
>
> 2.3. The order of the learned CIT(A) is beyond the provisions of section 147 since no disallowance was made with regard to the recorded reasons.
>
> 2.4. The learned CIT(A) failed to appreciate the fact that once an addition is not made with respect to the recorded reasons, no other item can be disallowed without issuing fresh notice.
>
> 2.5. The learned CIT(A) failed to appreciate the fact that the re-opening is without obtaining proper approval.
>
> 2.6. The learned CIT(A) failed to appreciate the fact that some of the additions are hit by the third proviso to section 147 of the Income Tax Act, 1961.
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> 2.7. The learned CIT(A) failed to appreciate the fact that the order of the learned Assessing Officer is based on surmises & conjunctures.

3. The learned CIT(A) erred in upholding the disallowance of Rs. 732,27,14,733/- out of the amount claimed as deduction u/s.36(1)(viia).

3.1. The learned CIT(A) failed to appreciate the fact that the addition made u/s 36(1)(viia) is hit by the third proviso to section 147 of the Income Tax Act, 1961.

3.2. The learned CIT(A) erred in considering only the incremental advance for the purpose of arriving at the deduction u/s 36(1)(viia).

3.3. The learned CIT(A) failed to appreciate the fact that for the purpose of arriving at the Aggregate Average Advances as per Rule 6ABA, the outstanding balance at the end of each month needs to be considered and not the incremental advances.

3.4. The learned CIT(A) failed to follow the binding decisions of the jurisdictional High Court and Tribunal.

3.5. The learned CIT(A) failed to appreciate the fact that the deduction u/s 36(1)(viia) has to be allowed on the basis of the calculation as provided in the section and not with reference to the amount of provision made in the books of account.

3.6 The disallowance made by the learned Assessing Officer and upheld by the learned CIT(A) is based on surmises and conjunctures.

4. The learned CIT(A) erred in upholding the order of learned Assessing Officer with regard to applicability of the provisions of Section 115JB of Income Tax Act, 1961 to the Appellant Bank.

4.1. The learned CIT(A) failed to appreciate that provisions of Section 115JB of the Income Tax Act, 1961 are not applicable to the appellant and as such, is not liable to pay tax under the said provisions.

4.2. The learned CIT(A) failed to appreciate the fact that the issue of applicability of provisions of Section 115JB is hit by the third proviso to section 147 of the Income Tax Act, 1961.

4.3. The learned CIT(A) failed to appreciate the fact that this issue has already been decided by the learned CIT(A) and the Departmental appeal is pending before ITAT.

4.4. Without prejudice to the above, the learned CIT(A) erred in adding various items to arrive at the book-profit which are beyond the scope of the section

5. The order passed by the learned CIT(A) is against the principles of natural justice.

5.1. The learned CIT(A) passed the impugned order without affording an opportunity of hearing through VC, which was specifically requested by the Appellant.

The appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal."

3. The brief facts of the case for AY 2014-15 are that the assessee filed its return of income on 29.11.2014 declaring loss of Rs.108,96,44,000. The case was selected for scrutiny and assessment u/s. 143(3) was completed on 28.12.2016 assessing total income at Rs.2028,45,47,130 under the regular provisions of the Act and deemed total income of Rs.3597,88,20,720 under the MAT provisions. During the scrutiny proceedings u/s. 143(3) for AY 2016-17, the AO noticed that the assessee claimed depreciation on land & building including vacant land @ rate applicable for the building for the previous years and the assessee is claiming excess depreciation. Accordingly, the case was reopened u/s. 147 after due procedure and notice u/s. 148 was issued to the assessee on 24.08.2018. In response, the assessee filed

return of income on 10.10.2018 wherein excess claim of depreciation was rectified. The AO issued other statutory notices. The objections of the assessee were disposed by order dated 22.11.2019. The breakup of depreciation on land for FY 2013-14 provided by the assessee is as under:-

Particulars	Opening WDV	Add > 180 days	Add < 180 days	Sale Considera-tion	Depreciation	Closing WDV
Residential	5,62,91,929	-	-	-	28,14,596	5,34,77,332
Commercial	1,40,62,786	-	-	-	1,33,34,195	12,00,07,752
Total	7,03,54,	-	-	-	1,61,48,791	17,34,85,084

4. During the reassessment proceedings, the AO observed that the assessee has claimed a sum of Rs.936,90,65,332 as deduction u/s. 36(1)(viia) of the Act in the computation of income filed with the return. The AO observed that as per section 36(1)(viia), assessee is eligible to get deduction to the extent of 7.5% of total income before allowing this deduction and 10% of aggregate average of rural advances made. The AO referred to section 36(1)(vii) & (viia) and Rule 6ABA and observed that the emphasis is on the advances made and not advances outstanding as on 31st March, 2014 and deduction u/s. 36(1)(viia) is only on the incremental advances. After considering the reply of the assessee in response to notice u/s. 142(1), the AO recalculated disallowance u/s. 36(1)(viia) of Rs.732,27,14,733 and made addition. The AO also disallowed excess depreciation on ATMs of Rs.3,11,060,880. The AO further noted from the return filed u/s. 148 and the original return u/s. 139(1) that the assessee had not computed book profits u/s. 115JB of the Act under the MAT

provisions. He noted that as discussed in detail in the order u/s. 143(3), the MAT provisions are very much applicable to the assessee. The AO noted that the CIT(Appeals) in the case of assessee held that the MAT provisions are squarely applicable to the assessee. Accordingly, the AO made addition of ATM depreciation of Rs.3,11,06,880 under the MAT provisions and considered the tax payable on regular income, since it was more than the tax payable under the MAT provisions.

5. On appeal, the CIT(Appeals) partly allowed the assessee's appeal. Aggrieved, the assessee is in appeal before the Tribunal.

6. During the course of hearing, the ld. AR argued only on the merits and submitted that the legal issue raised in ground No.2 should be left open. He retreated the submissions made before the lower authorities on merits of the case and further submitted in respect of ground No. 03 that the issue is squarely covered in favour of the assessee by the judgement of the jurisdictional High Court in assessee's own case in ITA No.207 of 2019 C/W ITA No.208/2019 [2023 (1) TMI 243 (Karnataka HC). The assessee has filed written synopsis in respect of ground No.4 which is as under:-

"Ground No. 4 – Applicability of the provisions of section 115JB:

1. Brief facts:

1.1. The Appellant Bank (the Bank) is constituted u/s 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (Acquisition Act). It is not a Company registered under the Companies Act. It did not compute its income under the provisions of section 115JB

of the Income Tax Act, 1961 since according to the Bank, the provisions of section 115JB dealing with Minimum Alternate Tax (MAT) are not applicable to them. The learned Assessing Officer held that the MAT provisions are applicable to the Bank and computed the Book Profit by applying the provisions of section 115JB. He made various additions to the Book Profit. On an appeal by the Bank, the learned CIT(A) held that the provisions of section 115JB are applicable to the Bank. Further, he also held that the various additions made by the learned Assessing Officer to the Book Profit are as per the provisions of section 115JB and upheld the same. The Appellant Bank has filed an appeal against the order of the learned CIT(A) challenging his decision on the applicability of MAT provisions and also adjustment made to the Book Profit.

2. Our Submissions:

2.1. Issue & the decisions prior to 01-04-2013:

Section 115JB(2) of the Income Tax Act, 1961 before its amendment by the Finance Act 2012 w.e.f. 01-04-2013 read as follows:

"(2) Every assessee, being a company, shall, for the purposes of this section, prepare its statement of profit and loss for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 (1of 1956)"

2.2. The Bank was subjected to MAT provisions by the learned Assessing Officer based on the provisions of section 115JB(2) as existed upto 31-03-2013 for the Asst Years upto 2012-13. The Bank disputed the decision of the learned Assessing Officer and obtained favourable orders from the higher appellate authorities. Infact, various High Courts including the jurisdictional Bombay High Court in the case of CIT vs Union Bank of India reported in [2019] 13 ITR-OL 655 (Bom) held that the provisions of section 115JB(2) are not applicable to Banks.

2.3. Dispute after 01-04-2013:

There was an amendment to section 115JB(2) by the Finance Act, 2012 w.e.f. 01-04-2013. The amended section reads as follows:
"

Every assessee,-

(a) being a company, other than a company referred to in clause (b), shall, for the purposes of this section, prepare its statement of profit and loss] for the relevant previous year in accordance with the provisions of Schedule III to the the Companies Act, 2013 (18 of 2013) ; or

(b) Being a company, to which the second proviso to sub-section (1) of section 129 of the Companies Act, 2013 (18 of 2013) is applicable, shall, for the purposes of this section, prepare its statement of profit and

loss for the relevant previous year in accordance with the provisions of the Act governing such company:

Provided that while preparing the annual accounts including statement of profit and loss,-
(i) the accounting policies;
(ii) the accounting standards adopted for preparing such accounts including statement of profit and loss;
(iii) the method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts including [37][statement of profit and loss] and laid before the company at its annual general meeting in accordance with the provisions of section 129of the Companies Act, 2013 (18 of 2013):

Provided further that where the company has adopted or adopts the financial year under the the Companies Act, 2013 (18 of 2013), which is different from the **p**revious year under this Act,-
(i) the accounting policies;
(ii) the accounting standards adopted for preparing such accounts including statement of profit and loss;
(iii) the method and rates adopted for calculating the depreciation,

shall correspond to the accounting policies, accounting standards and the method and rates for calculating the depreciation which have been adopted for preparing such accounts including [37][statement of profit and loss] for such financial year or part of such financial year falling within the relevant previous year.

Explanation. 1 ……..”

2.4. From the above amended section, it can be seen that the provisions of sub clause 2(a) are not applicable to the Bank as decided by various appellate authorities and the High Court.

2.5. Sub clause 2(b) is applicable to a Company to which the second proviso to sub section (1) of section 129 of the Companies Act, 2013 is applicable. It is the submission of the Bank that the second proviso to section 129(1) of the Companies Act 2013 is not applicable to the Bank.

2.6. The second proviso to Section 129(1) of the Companies Act, 2013 reads as follows:

“Provided further that nothing contained in this sub-section shall apply to any insurance or banking company or any company engaged in the generation or supply of electricity, or to any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company.”

2.7. The proviso uses the term “banking company”. Therefore, unless the Bank is covered by the term banking company, as defined in the Companies Act 2013, the second proviso will not be applicable to it.

2.8. Since the provisions of the Companies Act 2013 have been referred to in section 115JB(2), as per the principles of interpretation, the words defined in the said Act are to be adopted. Companies Act 2013, defines the term banking company. In section 2(9), of the Companies Act 2013, the term banking company is defined as follows:

> “(*9*) —banking company means a banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);”

2.9. Since the Companies Act 2013 refers to the definition of the term banking company as defined in the Banking Regulation Act, 1949 (BR Act), the definition contained in the said Act needs to be considered.

2.10. Section 5(c) of the BR Act defines the term banking company as follows:

> “(c) "banking company" means any company which transacts the business of banking[in India];”

2.11. Section 5(d) of the BR Act defines the term Company as follows:

> “(d) “company” means any company as defined in section 3 of the Companies Act 1956 (1 of 1956); and includes a foreign company within the meaning of section 591 of that Act;”

2.12. From the above definition, it can be seen that a Company as per section 3 of the Companies Act 1956 and carrying on the business of banking is a banking company as per the provisions the BR Act.

2.13. Section 3 of the Companies Act 1956 defines the term “Company” as follows:

“3. DEFINITIONS OF "COMPANY", "EXISTING COMPANY", "PRIVATE COMPANY" AND "PUBLIC COMPANY"

(1) In this Act, unless the context otherwise requires, the expressions "company", "existing company", "private company" and "public company", shall, subject to the provisions of sub-section (2), have the meanings specified below: -

(*i*) "company" means a company formed and registered under this Act or an existing company as defined in clause (*ii*);

(*ii*) "existing company" means a company formed and registered under any of the previous companies laws specified below : -

(*a*) any Act or Acts relating to companies in force before the Indian Companies Act, 1866 (10 of 1866), and repealed by that Act ;
(*b*) the Indian Companies Act, 1866 (10 of 1866) ;
(*c*) he Indian Companies Act, 1882 (6 of 1882) ;
(*d*) the Indian Companies Act, 1913 (7 of 1913) ;
(*e*) the Registration of Transferred Companies Ordinance, 1942 (54 of 1942) ; and
(*f*) any law corresponding to any of the Acts or the Ordinance aforesaid and in force-

(*1*) in the merged territories or in a Part B States (other than the State of Jammu and Kashmir), or any part thereof, before the extension thereto of the Indian Companies Act, 1913 (7 of 1913) ; or
(*2*) in the State of Jammu and Kashmir, or any part thereof, before the commencement of the Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956), insofar as banking, insurance and financial corporations are concerned, and before the commencement of the Central Laws (Extension to Jammu & Kashmir) Act, 1968 (25 of 1968), insofaras other corporations are concerned ; and
(*g*) the Portuguese Commercial Code, insofar as it relates to "*sociedades anonimas*"

……"

2.14. Based on the above, it can be seen that only a Company registered under the Companies Act 1956 or any other previous Companies Act can be called a Company.

2.15. The Bank is not registered either under the Companies Act 1956 or under any other previous Companies Act. It is constituted by an Act of Parliament being the Acquisition Act. It does not owe its existence to the Companies Act 1956. Therefore, it is not a Company as per the provisions of the Companies Act. If it is not a Company as per the provisions of the Companies Act, then, it cannot be termed as a Banking Company as per the provisions of the BR Act and as a consequence, it is not a Banking Company for the purpose of the Companies Act. Therefore, the second proviso to section 129(1) of the Companies Act 2013 is not applicable to the Bank.

2.16. It is submitted that the Bank is defined separately in the BR Act. Section 5(da) of the BR Act, defines the Bank as under:

"(da) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 3 of

the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)"

2.17. It is settled principle of law that once a term is defined in an Act specifically, then, that should be adopted over the general definition. The term banking company is different from the term corresponding new bank. As submitted above, the Bank does not fall within the definition of the term banking company. However, it is squarely covered by the term corresponding new bank. Even on this count, the second proviso to section 129(1) of the Companies Act 2013 is not applicable to the Bank since the said proviso does not cover the term corresponding new bank.

2.18. Since the second proviso to section 129(1) of the Companies Act 2013 is not applicable to the Bank, the provisions of section 115JB(2) are not applicable to the Bank.

2.19. In this regard, reliance is placed on the following decisions:

Sr. No.	Name	Citation	Para No	Page No
1	Greater Bombay Co-op. Bank Ltd Versus M/s United Yarn Tex. Pvt. Ltd. & Ors	2007 (4) TMI 679 - SUPREME COURT		10, 11, 13, 14, 16, 17, 18, 19, 20, 21 & 25
2	Larsen & Toubro Ltd & Others	2015 (8) TMI 749 - SUPREME COURT	20 - 25	41 - 43
3	ING Vysya Bank Limited	[2020] 422 ITR 116 (Kar)	6 - 11	50 - 52
4	Punjab National Bank (successor of Oriental Bank of Commerce)	ITA No. 740 / Del / 2020 - order dated 31-03-2023 for Asst Year 2016-17	10	217 - 227
5	Indian Overseas Bank	2020 (3) TMI 897 - ITAT CHENNAI	29 - 30	181 - 182
6	Damodar Valley Corporation	2017 (8) TMI 1363 - ITAT KOLKATA	4 - 6	104 - 106
7	Rajasthan Financial Corporation	2023 (1) TMI 623 - ITAT JAIPUR	12	199 - 201

2.20. In the case of Greater Bombay Co-Op. Bank Ltd vs United Yarn Tex. Pvt Ltd. & Ors – 2007 (4) TMI 679 SUPREME COURT, the Apex Court was considering a question whether the Recovery of Debts due to banks and Financial Institutions Act, 1993 (the RDB Act) is applicable to certain Co-operative Banks established in Maharashtra & Andhra Pradesh. After analysing various provisions of the BR Act, RDB Act, the Hon'ble Supreme Court held as under:

"Co-operative banks" established under the Maharashtra Co-operative Societies Act, 1960 [MCS Act, 1960]; the Andhra Pradesh Co-operative Societies Act, 1964 [APCS Act, 1964]; and the Multi-State Co-operative Societies Act, 2002 [MSCS Act, 2002] transacting the business of banking, do not fall within the meaning of "banking company" as defined in Section 5 (c) of the Banking Regulation Act, 1949 [BR Act]. Therefore, the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 [RDB Act] by invoking the Doctrine of Incorporation are not applicable to the recovery of dues by the co-operatives from their members.

2.21. Certain observations and arguments in the said decision, which are relevant to the present case are extracted herein below:

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"The Parliament has thus consistently made the meaning of 'banking company' clear beyond doubt to mean 'a company engaged in banking, and not a co-operative society engaged in banking' and in Act No. 23 of 1965, while amending the BR Act, it did not change the definition in Section 5 (c) or even in 5(d) to include co-operative banks; on the other hand, it added a separate definition of 'co-operative bank' in Section 5 (cci) and 'primary co-operative bank' in Section 5 (ccv) of Section 56 of Part V of the BR Act. Parliament while enacting the Securitisation Act created a residuary power in Section 2(c)(v) to specify any other bank as a bank for the purpose of that Act and in fact did specify 'co-operative banks' by Notification dated 28.01.2003. The context of the interpretation clause plainly excludes the effect of a reference to banking company being construed as reference to a co-operative bank for three reasons: firstly, Section 5 is an interpretation clause; secondly, substitution of 'co-operative bank' for 'banking company' in the definition in Section 5 (c) would result in an absurdity because then Section 5 (c) would read thus: "co-operative bank" means any company, which transacts the business of banking in India; thirdly, Section 56 (c) does define "co-operative bank" separately by expressly deleting/inserting clause (cci) in Section 5. The Parliament in its wisdom had not altered or modified the definition of 'banking company' in Section 5 (c) of the BR Act by Act No.23 of 1965.

As noticed above, "Co-operative bank" was separately defined by the newly inserted clause (cci) and "primary co- operative bank" was similarly separately defined by clause (ccv). The meaning of 'banking company'

must, therefore, necessarily be strictly confined to the words used in Section 5(c) of the BR Act. If the intention of the Parliament was to define the 'co-operative bank' as 'banking company, it would have been the easiest way for the Parliament to say that 'banking company' shall mean 'banking company' as defined in Section 5(c) and shall include 'co-operative bank' and 'primary co-operative bank' as inserted in clauses (cci) and (ccv) in Section 5 of Act 23 of 1965."

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The provisions of the RDB Act, which are relevant, are referred to in the following paragraphs.

Section 2(d) defines "banks" to mean (i) a banking company; (ii) a corresponding new bank; (iii) State Bank of India; (iv) a subsidiary bank; or (v) a Regional Rural Bank. In terms of clause (e) "banking company" shall have the meaning assigned to it in clause (c) of Section 5 of the BR Act.

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Mr. S. Ganesh, learned Senior Advocate appearing on behalf of the appellant in Civil Appeal Nos.432 to 434 of 2004, vehemently contended that the High Court of Bombay completely failed to appreciate the meaning of "banking company" as defined in Section 5(c) of the BR Act which clearly and indisputably does not cover or include a 'co- operative bank' registered under the MCS Act, 1960 or the MSCS Act, 2002. He submitted that Section 56 of the BR Act did not amend the definition of 'banking company' in terms of Section 5 (c), but for all intents and purposes Act No.23 of 1965 merely extends the application of the provisions of the BR Act to 'a co-operative bank' even though it is not a 'banking company' as defined in Section 5(c).

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…….He then submitted that the co-operative bank will have to be included in the definition of the term "banking" as defined in Section 2(d) of the RDB Act as Section 5(c) of the BR Act cannot be read in isolation ignoring Section 56 of the Act……...

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In the last, the learned counsel supported the judgments and orders of the High Court of Bombay and the High Court of Andhra Pradesh holding that as the co-operative banks are transacting banking business, they are covered by the definition of "banking company" under Section 5(c) of the BR Act, therefore, the Tribunal constituted under Section 3 of the RDB Act has jurisdiction and power under Section 17 to decide claims of all banks including the co-operative banks.

Mr. U. U. Lalit, learned Senior Advocate appearing on behalf of the respondent …….. Co-operative banks transacting the banking

business are, therefore, covered by the RDB Act in terms of the meaning of "banking company" under Section 2(d) of the Act.

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The RDB Act was passed in 1993 when Parliament had before it the provisions of the BR Act as amended by Act No. 23 of 1965 by addition of some more clauses in Section 56 of the Act. The Parliament was fully aware that the provisions of the BR Act apply to co-operative societies as they apply to banking companies. The Parliament was also aware that the definition of 'banking company' in Section 5 (c) had not been altered by Act No. 23 of 1965 and it was kept intact, and in fact additional definitions were added by Section 56(c). "Co- operative bank" was separately defined by the newly inserted clause (cci) and "primary co-operative bank" was similarly separately defined by clause (ccv). The Parliament was simply assigning a meaning to words; it was not incorporating or even referring to the substantive provisions of the BR Act. The meaning of 'banking company' must, therefore, necessarily be strictly confined to the words used in Section 5(c) of the BR Act. It would have been the easiest thing for Parliament to say that 'banking company' shall mean 'banking company' as defined in Section 5 (c) and shall include 'co-operative bank' as defined in Section 5 (cci) and 'primary co-operative bank' as defined in Section 5 (ccv). However, the Parliament did not do so. There was thus a conscious exclusion and deliberate commission of co-operative banks from the purview of the RDB Act. The reason for excluding co-operative banks seems to be that co-operative banks have comprehensive, self- contained and less expensive remedies available to them under the State Co-operative Societies Acts of the States concerned, while other banks and financial institutions did not have such speedy remedies and they had to file suits in civil courts.(* emphasis applied)

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The language of the Sections in these enactments defining 'banking company' is plain, clear and explicit. It does not admit any doubtful interpretation as the intention of the legislature is clear as afore-said. It is well-settled that the language of the Statutes is to be properly understood. The usual presumption is that the Legislature does not waste its words and it does not commit a mistake. It is presumed to know the law, judicial decisions and general principles of law. The elementary rule of interpretation of the Statute is that the words used in the Section must be given their plain grammatical meaning. Therefore, we cannot afford to add any words to read something into the Section, which the Legislature had not intended.

Finally, it could not be said that Amendments in Chapter V, Section 56 of the RDB Act by Act No. 23 of 1965 inserting "co-operative bank" in Clause (cci) and "primary co-operative bank" in Clause (ccv) either expressly or by

necessary intentment apply to the co-operative banks transacting business of banking.

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"Co-operative banks" established under the Maharashtra Co-operative Societies Act, 1960 [MCS Act, 1960]; the Andhra Pradesh Co-operative Societies Act, 1964 [APCS Act, 1964]; and the Multi-State Co-operative Societies Act, 2002 [MSCS Act, 2002] transacting the business of banking, do not fall within the meaning of "banking company" as defined in Section 5 (c) of the Banking Regulation Act, 1949 [BR Act]. Therefore, the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 [RDB Act] by invoking the Doctrine of Incorporation are not applicable to the recovery of dues by the co-operatives from their members.

2.22. From the above decision of Hon'ble Supreme Court, it can be seen that when the words are defined in an Act, then, the same should be adopted. In that case also, the definition of the term banking company as per the BR Act vis-à-vis RDB Act was under consideration. The RDB Act defined the term banks to mean, among other things, a banking company as defined in section 5(c) of the BR Act. It was argued before the Hon'ble Supreme Court that the term banking company should also include co-operative banks. However, the Hon'ble Supreme Court after analysing various provisions of the BR Act, decided that the term banking company u/s 5(c) of the BR Act does not include co-operative bank since the term co-operative bank is separately defined u/s 5(cci) of the BR Act. This clause 5(cci) is inserted vide section 56 of the BR Act contained in Part V of the said Act which deals with Co-Operative Banks. The Hon'ble Supreme Court held that since the co-operative banks are defined separately under the BR Act, they cannot be included in the definition of the banking company contained in the said Act.

2.23. The above decision of the Hon'ble Supreme Court squarely applies to the facts of this case also. In this case also, the Appellant Bank is separately defined u/s 5(da) of the BR Act as "corresponding new bank" and therefore, it cannot be included within the term "banking company" as per the said Act.

2.24. Without prejudice to the above, even assuming, but not admitting, that the Appellant Bank has to be treated as a company covered u/s 115JB(2)(b), then, also, the provisions are not applicable since the computation of Book Profit fails. As per first proviso to section 115JB(2), the Assessee has to follow the same accounting policy, accounting standards and method and rates adopted for calculating depreciation as have been adopted for the purpose of preparing a Profit & Loss Account and laid down at its Annual General Meeting in accordance with the provisions of Section 210 of the Companies Act, 1956. In this case, the Bank does not prepare any Profit & Loss Account which is laid down as per the provisions of Section 210 of the

Companies Act. The Accounts are laid before the Annual General Meeting as per Section 10A of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. Thus, the provisions of section 210 of the Companies Act is not applicable to the Bank. Therefore, even assuming but not admitting that, the charging section of 115JB is applicable to the Bank, the computation would fail since it would not be possible for the Bank to prepare a Profit & Loss Account as per section 115JB(2). It is a settled principle of law that if the computation fails, the charge fails. In the case of Union Bank of India, the Hon'ble Bombay High Court by applying this principle, held that the provisions of section 115JB are not applicable. This decision is reported in [2019] 13 ITR-OL 655 (Bom). This decision was followed by the Hon'ble Karnataka High Court in the case of CIT vs ING Vysya Bank Ltd [2020] 422 ITR 116 (Kar.). The Hon'ble Bombay High Court held in para 11 as under:

"11. This legal dichotomy emerging from the provisions of sub-section (2) of section 115JB particularly having regard to the first proviso contained therein in the case of a banking company, would convince us that machinery provision provided in sub-section (2) of section 115JB of the Act, would be rendered wholly unworkable in such a situation. In a well known judgment the Supreme Court in the case of CIT v. B. C. Srinivasa Setty [1981] 128 ITR 294 (SC) had observed that in the Income-tax Act, a charging section and the computing provisions together constitute an integrated code. In a case where the computation provision cannot apply, it would be evident that such a case was not intended to fall within the charging section.

……"

2.25. Based on the above, it is submitted that the provisions of section 115JB are not applicable to the Appellant Bank and hence it is prayed that the ground of the Department in this regard may please be dismissed.

3. Rebuttal to the learned CIT(A) order and the decision of Hon'ble Mumbai Tribunal in the case of Bank of India in ITA Nos. 1767 & 2048 (Mum) of 2019 – order dated 11-12-2020.

3.1. The learned CIT(A) has relied on the decision of the Hon'ble Mumbai Tribunal in the case of Bank of India (supra). The decision of the Hon'ble Tribunal in the case of Bank of India, with due respect, is per incuriam for the following submissions:

- The decision has mainly relied on the deeming fiction contained in section 11 of the Acquisition Act. It has been clearly established that the deeming fiction deems the Bank as a company for the purpose of Income Tax Act and not more than that. Therefore, unless the Bank is a banking company as per the provisions of the BR Act, then, it is not covered by the second

proviso to section 129(1) of the Companies Act 2013 and as such, it is not covered by section 115JB(2)(b). With due respect, this fact has been overlooked by the Hon'ble Tribunal.

- In para 29 of the said decision, the Hon'ble Tribunal has extracted the observations of the Hon'ble Bombay High Court in the case of Union Bank of India (supra). In the said decision, the Hon'ble High Court has noted the second proviso to section 129(1) of the Companies Act 2013. It also noted that the second proviso refers to insurance or banking companies or companies engaged in the generation or supply of electricity or to any other class of company in which form of financial statement has been specified in or under the Act governing such class of company. The Court did not make any observation as to the Bank (a nationalized bank) is a banking company or not. In the said decision, the Court was also dealing with the cases of some of the assessees which are banking companies as per the provisions of the BR Act.

- In para 30, the Tribunal observed as follows:

  "Interestingly, it was not even plea of the assessee, and rightly so, that section 115JB will have no application on the assessee because the assessee could not be treated as a company for the purposes of Section 115JB."

- The above observation is not applicable to this case. It is our submission that the Assessee is not a banking company for the purpose of 115JB. What is to be seen is whether the Assessee is a banking company or not. Whether the Assessee is a company or not is not to be seen for the purpose of section 115JB(2)(b).

- In para 31, the Tribunal concluded as follows:

  "The plea of the assessee, with respect to non-applicability of section 115JB to the banking companies like the assessee before us, is, therefore, rejected."

- The above conclusion of the Tribunal, with due respect, is per incuriam. There is no finding in the order of the Tribunal that the Assessee Bank therein is a banking company as per the provisions of the BR Act. The Assessee in that case has argued in detail that it was not a banking company and the arguments have been extracted by the Tribunal in para 22. However, with due respect, the Tribunal negated this argument in para 23 of its decision, purely basing its reasoning on the contextual interpretation of the words.

- The following observations of the Hon'ble Tribunal in para 23 are, with due respect, per incuriam, as it is against the settled principle of law declared by the Hon'ble Supreme Court and various High Courts in many decisions.

  "Nothing, therefore, turns on these definitions. What is to be essentially examined is what was the requirement of the context. The contextual requirement of Section 115JB, for taxation of book profits, was with respect to the companies which were able to distribute dividends on the basis of book profits even though the taxability of their profits, for the income tax purposes, was on a much lower amounts. We are unable to see any reasons as to why in this scheme of taxation of book profits, an assessee like the assessee before us, i.e. a bank distributing dividends on the basis of books profits but paying tax on a substantially lower amount of taxable profits, should be excluded. It is a corporate entity treated as such for the purposes of Income Tax Act 1961 by the virtue of specific legal provisions to that effect, it pays dividends, its taxable profits are substantially lower than book profits, and, therefore, in our humble understanding, there is no good reason not to treat it as a company- at least no good reasons are shown to us. All that has been said is that there is a drafting error in the legislation, by not specifically including the nationalized banks- as for the purpose of some other deduction provisions, but then what this argument overlooks is that definition provision is not the same thing as charging provision or even computation provision, and that the statutory definitions- on account of specific provision to that effect in the definition itself, have to yield to the contextual meanings."

- In any case, the above observations, based on which the Tribunal concluded its decision, are per incuriam as it runs counter to the interpretation given by the Hon'ble Supreme Court in the case of Greater Mumbai Co-op Bank Ltd (supra). In the said decision also, arguments were made before the Hon'ble Supreme Court that the term banking company as per the BR Act should include co-operative banks also. This was negated by the Hon'ble Supreme Court by holding that banking company and co-operative banks are defined separately in the BR Act. In this case also, the banking company and the corresponding new bank are defined separately and as such, corresponding new bank cannot be treated as a banking company. Since the bank is a corresponding new bank, it cannot be treated as a banking and as such, the provisions of section 115JB are not applicable to the Bank.

3.2. The decision of the Hon'ble Tribunal is per incuriam, with due respect, to the settled principle interpretation by the Hon'ble Supreme Court with respect to taxing statutes. In this regard, reliance is placed on the following observations of the Hon'ble Supreme Court in the case of Shabina Abraham and others vs CCE&C – 2015 (10) SCC 770. The relevant observations of the Apex Court are extracted hereunder:

"31. The …….. Apart from this, the High Court went into morality and said that the moral principle of unlawful enrichment would also apply and since the law will not permit this, the Act needs to be interpreted accordingly. We wholly disapprove of the approach of the High Court. It flies in the face of first principle when it comes to taxing statutes. It is therefore necessary to reiterate the law as it stands. In Partington v. A.G., (1869) LR 4 HL 100 at 122, Lord Cairns stated:

"If the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of law the case might otherwise appear to be. In other words, if there be admissible in any statute, what is called an equitable, construction, certainly, such a construction is not admissible in a taxing statute where you can simply adhere to the words of the statute".

32. In Cape Brandy Syndicate v. IRC, (1921) 1 KB 64 at 71, Rowlatt J. laid down:

"In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used."

33. This Court has, in a plethora of judgments, referred to the aforesaid principles. Suffice it to quote from one of such judgments of this Court in Commissioner of Sales Tax Commissioner, Uttar Pradesh v. Modi Sugar Mills, 1961 (2) SCR 189 at 198: -

"In interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. **It must interpret a taxing statute in the light of what is clearly expressed; it cannot imply anything which is not expressed; it cannot import provisions in the statute so as to supply any assumed deficiency." (*)**

34. We are, therefore, of the view that this appeal must be allowed and the judgment of the High Court of Kerala is, accordingly set aside and that of the learned Single Judge restored." (* emphasis applied)

3.3. Base on the above, it is submitted that the decision rendered in the case of Bank of India are not binding.

3.4. Without prejudice to the above, there are decisions of the Hon'ble Tribunal in the case of the Appellant Bank. There are no decisions of either jurisdictional High Court or any other High Courts. In view of the same, it is submitted that the decisions in favour of the Appellant Bank may have to be followed as held by the Hon'ble Supreme Court in the case of CIT vs Vegetable Products Ltd [1973] 88 ITR 192 (SC) also the Hon'ble Karnataka High Court in the case of S N. Builders & Developers 2021 (11) TMI 430 – KARNATAKA HIGH COURT.

4. It is humbly submitted that the grounds of the Appellant Bank be allowed by holding that the provisions of section 115JB are not applicable to the Appellant Bank. "

7. The ld. AR further relied on the following case laws:-

Sr. No.	Name of the Party	Citation
1.	DSP MERILL LYNCH CAPITAL LTD.	[2023] 456 ITR 768 (SC)
2.	UNITED GLASS MFG CO. LTD.	2012 (9) TMI 914 - SUPREME COURT
3.	SOUTH INDIAN BANK LTD.	[2021] 438 ITR 1 (SC)
4.	CANARA BANK	2023 (1) TMI 243 - KARNATAKA HIGH COURT
5.	DSP MERILL LYNCH CAPITAL LTD.	[2023] 21 ITR-OL 710 (Born)
6.	CANARA BANK. ERSTWHILE SYNDICATE BANK)	2023 (5) TMI 543 - ITAT BANGALORE
7.	THE KARNATAKA BANK LTD.	2022 (5) TMI 1537 - ITAT BENGALURU
8.	UNION BANK OF INDIA, (ERSTWHILE CORPORATION BANK)	2022 (3) TMI 1131 -ITAT BANGALORE
9.	NEW GLOBE LOGISTIK PVT. LTD. (NOW KNOWN AS NEW GLOBE LOGISTICK LLP)	2023 (6) TMI 1064 -ITAT MUMBAI

10.	M/s SYNDICATE BANK	ITA No. 99&100/PAN/2017-ITAT BANGALORE
11.	M/s CANARA BANK (FOR AMALGAMATED ENTITY SYNDICATE BANK)	ITA No. 258 OF 2020-KARNATAKA HIGH COURT
12.	Yokogawa India Ltd	[2012] 17 taxmann.com 15 (Kar.)
13.	Kirloskar Systems Ltd	[2013] 40 taxmann.com 124 (Karnataka)
14.	Syndicate Bank	[2015] 54 taxmann.com 292 (Karnataka)
15.	Vodafone Essar Gujarat Ltd	2017 (8) TMI 451 - Gujarat High Court
16.	Torrent Private Limited	2019 (6) TMI 709 - GUJARAT HIGH COURT
17.	Gokaldas Images	[2020] 429 ITR 526 (Kar)
18.	Canara Bank (erstwhile Syndicate Bank)	2022 (1) TMI 124 - ITAT BENGALURU
19.	Vireet Investment (P.) Ltd	[2017] 165 ITD 27 (Delhi - Trib.) (SB)

8. The ld. DR relied on the orders of lower authorities. She submitted that the disallowance calculated u/s. 36(1)(viia) is within the framework of the Income-tax Act and the language is very clear. The CIT(Appeals) has rightly decided the issue. Further in respect of applicability of provisions of section 115JB, she submitted that in para 14.4, the CIT(Appeals) has relied on the decision of the coordinate Bench of the Tribunal in the case of *Bank of India v. ACIT [2020] 122 taxman.com 247 (Mum Trib)* in which it has been held that Bank of India is to be treated as a company since the activities of the Bank of India and the assessee Bank are quite similar and both are engaged in banking business. Bank of India is also a Nationalized Bank which was formed as per the Acquisition Act, 1969 by the Govt. of India and the formation of the assessee Bank is also as per the same Act.

Therefore, the amendment made in section 115JB is very much applicable to the assessee. Hence the orders of lower authorities should be upheld.

9. After considering rival contentions, we note that the issue of allowance u/s. 36(1)(viia) has been settled by the Hon'ble jurisdictional High Court of Karnataka in the case of CIT, LTU v. Canara Bank, **[2023] 147 taxmann.com 171 (Karnataka)[05-12-2022]** in which it has been held as under:-

*"**6.** Insofar as question No. 4 is concerned, adverting to section 36(1)(viia) of the Income-tax Act, 1961, Shri Aravind submitted that the word used in the statute is aggregate average advances "made" by the rural branches. To quote an example, he submitted that for A.Y. is 2013-14 (F.Y. 2012-13) if the bad debt as on 31-3-2012 is considered to be as Rs. 1 Crore by virtue of making provisions subsequently, the assessee will be entitled for double benefit because provisions in respect of 10% of the bad debt of provisions of Rs. 1 Crore towards bad debt was already made as on 31-3-2012. Therefore, if the same amount is carried forward for the next F.Y., the assessee will be entitled for the double benefit because it would be making a provision for Rs. 1 Crore in addition to the 10% to the bad debt made in the relevant F.Y.*

***7.** Shri Suryanarayana, adverting to the Para 7 of the impugned order, submitted that in identical circumstances, in assessee's own case, the assessee had made provision in similar manner as made in A.Y. 2013-14. A co-ordinate bench of the Tribunal had accepted the provision made by the assessee benefit in Canara Bank v. Jt. CIT [2018] 99 taxmann.com 357/[2017] 60 ITR (Trib.) 1 (Bengaluru - Trib.). He further submitted that the said order has been followed by the Tribunal in Vijaya Bank v. Jt. CIT [IT Appeal Nos. 915 & 845 (Bang.) of 2017, dated 5-1-2018] and the said method of making provision has been approved by the Calcutta High Court in Uttarbanga Kshetriya Gramin Bank case.*

***8.** We have carefully considered the rival contentions and perused the records.*

***9.** In Para 7.2 of the impugned order, the Tribunal has recorded thus,*
"7.2 Before us, the learned Authorised Representative for the assessee reiterated the submission that the language of Rule 6ABA is very clear and does not mandate that only incremental advances has to be considered and nothing can be read into it as has been done by the authorities below. It was submitted that this issue has

been considered and decided in favour of the assessee by the co-ordinate bench of this Tribunal in the case of Canara Bank v. JCIT (2017) 60 ITR (Trib) 1 [ITAT (Bang)]"

***10.** It is further held that the said decision has been followed in Vijaya Bank case. The manner in which the computation has been made has been given in the case of Vijaya Bank Case. Order passed by the Tribunal in Canara Bank's case followed in Vijaya Bank case has attained finality and the Revenue has not challenged the said order. Further, the High Court of Calcutta, while considering an identical situation as recorded thus,*

"Mr. Khaitan, learned senior Advocate appeared on behalf of the assessee and submitted that the computation to be made as prescribed by rule 6ABA is for the purpose of fixing the limit of the deduction available under section 36(1)(viia). Clauses (a) and (b) in rule 6ABA cannot be given the restricted interpretation. The amounts of advances as outstanding at the last day of each month would be a fluctuating figure depending on the outstanding as increased or reduced respectively by advances made and repayments received. The assessee might provided for bad and doubtful debts but the deduction would only be allowed at the percentage of aggregate average advance, computation of which is prescribed by rule 6ABA.

We find from the amended direction made by the Tribunal that such direction is in terms of rule 6ABA. The ITO has made the computation of aggregate monthly advances taking loans and advances made during only the previous year relevant to assessment year 2009-10 as confirmed by CIT(A). The Tribunal amended such direction, in our view, correctly applying the rule."

***11.** In view of the above, these appeals with regard to question No. 4 must fail and it is also answered in favour of the assessee and against the Revenue."*

10. Respectfully following the above judgment of the jurisdictional High Court, we hold that while calculating average aggregate advances of rural branches under section 36(1)(viia), both advance outstanding as well as fresh advances are to be considered. Ground No.3 is allowed.

11. Ground No.4 : Considering the rival submissions and perusing the material available on record, the applicability of MAT provisions in the case of banking company for the impugned AY has been sent back to the file of the CIT(A) by the coordinate Bench against the 143(3) order which is pending before the CIT(A) as per the OGE passed by the AO u/s. 254 r.w.s. 143(3) of the Act vide his order dated 23..03.2022. On going through the above decision of coordinate Bench in ITA No.1885/Bang/2018, the issue has been decided from para 13 to 13.7 which is as under:-

"13. The assessee-bank had not computed book profit and accordingly not calculated MAT. It was contended that it was under the belief that the assessee-company being a public sector bank is not a company under Companies Act, 1956 as well as Banking Regulations Act, 1949. Therefore, as such provisions of Section 115JB of the Act does not apply to the assessee. However, the Assessing Officer held that provisions of Section 115JB of the Act are applicable to the bank.

13.1 Aggrieved, the assessee filed appeal to the first appellate authority. Before the first appellate authority it was contended that even amended section 115JB of the Act does not apply to the bank as it was of the view that – (i) it does not prepare profit and loss account as per the provisions of the Companies Act, 1956 and (ii) Section 211 of the Companies Act, 1956 does not apply to them as they do not fall under the definition of Banking Companies under Companies Act, 1956.

13.2 The CIT(A) dismissed the assessee's contention by holding that there is no option given to the company u/s 115JB of the Act to exclude itself from the applicability of the provisions of Section 115JB of the Act on the ground that it does· not prepare profit and loss account as per the provisions of the Companies Act, 1956. Further, it was held by the CIT(A) that provisions of section 115JB(2)(a) of the Act will be applicable to the assessee-bank as it is an Indian Company as per

Section 11 of Banking Companies (Acquisition & Transfer of Undertaking) Act, 1949.

13.3 Aggrieved by the order of the CIT(A), the assessee has raised this issue before the Tribunal. The learned AR submitted that in assessee's own case for assessment year 2013-2014 an identical issue was considered and the matter was remitted back to the CIT(A). It was submitted by the ITA No.1885/Bang/2018 & 237/PAN/2018 M/s.Canara Bank (Erstwhile Syndicate Bank) 16 learned AR that since the facts being identical, a similar view may be taken by the Tribunal for this assessment year also.

13.4 The learned DR was duly heard.

13.5 We have heard rival submissions and perused the material on record. The Tribunal in assessee's own case for assessment year 2013-2014 (supra) had restored the issue to the files of the CIT(A). The CIT(A) was directed to examine whether the assessee being a banking company would be liable for book profits u/s 115JB of the Act. The relevant finding of the Tribunal in assessee's own case, reads as follows:-

> *"7.4 We heard the parties on this issue and perused the record. We notice that the Ld CIT(A) has expressed the view that the assessee would fall under clause (a) of sec.115JB(2). However the case of the assessee is that clause (b) of sec.115JB(2) is made applicable to banking companies, since banking company is included in sec. 211 of the Companies Act. However, it is the contention of the assessee that it is not a 'banking company", i.e., it is a "corresponding new bank".*
>
> *7.5 We notice that the provisions of sec.51 of the Act specifically states that only certain provisions of BR Act are applicable to "Corresponding new bank". We noticed earlier that the Ld CIT(A) has proceeded to decide this issue by observing that all provisions of BR Act are applicable to the Company. We notice that the Ld CIT(A) did not consider the effect of provisions of sec.51 of the BR Act upon the assessee. Hence the decision taken by him under the impression that all the provisions of BR Act are applicable to the assessee is faulted one. In our view the Ld CIT(A) should considered the effect of provisions of sec. 51 of BR Act and accordingly he should have appreciated the contentions of the assessee on the definition of "banking company", provisions of sec.211(2) of the Companies Act etc. Since these aspects go to the root of the issue, in our view, this issue needs*

to be examined at the end of Ld CIT(A) afresh. Accordingly, we set aside the order passed by Ld CIT(A) on this issue and restore the same to his file for examining it afresh."

13.6 In view of the co-ordinate Bench order of the Tribunal in assessee's own case for assessment year 2013- 2014, we restore this issue to the files of the CIT(A). The CIT(A) shall follow the directions contained in the Tribunal order for assessment year 2013-2014 and shall afford a reasonable opportunity of hearing to the assessee before a decision is taken on the issue. It is ordered accordingly."

12. Respectfully following the above decision and submissions made by both the parties, we remit this issue also to the file of CIT(A) for fresh consideration and decision as per law in the same terms. This ground is allowed for statistical purposes.

13. Ground No.4.3 - Addition to book profit u/s. 115JB : This issue raised by the assessee has also been by the coordinate Bench of the Tribunal to the CIT(A) for fresh consideration as per para No.14 of the order which reads as under:-

"14. The Assessing Officer had made various additions to the book profit u/s 115JB of the Act by holding that such provisions / write off would get covered under the provisions of section 115JB of the Act. Since the issue regarding the applicability of section 115JB of the Act is restored to the files of the CIT(A), the additions made u/s 115JB of the Act by the A.O. and sustained by the CIT(A) is also restored to the files of the CIT(A) for examining of the same afresh. It is ordered accordingly. Similar view has been taken in assessee's own case for assessment year 2013-2014 (supra)."

13.1 Respectfully following the above decision, we also remit this issue to the CIT(A) for fresh decision as per law in the same terms. This ground is allowed for statistical purposes.

14. The grounds raised by the assessee in ITA No.389/Bang/2023 for AY 2015-16 are similar to ITA No.388/Bang/2023 for AY 2014-15 and both the parties agreed and arguments advanced were similar, therefore the decision in the AY 2014-15 will apply mutatis mutandis to AY 2015-16 also.

15. To sum up, ITA No.388/Bang/2023 for AY 2014-15 and ITA No.389/Bang/2023 for AY 2015-16 are partly allowed for statistical purposes.

Pronounced in the open court on this 26th day of September, 2023.

Sd/-	Sd/-
(GEORGE GEORGE K.)	(LAXMI PRASAD SAHU)
VICE PRESIDENT	ACCOUNTANT MEMBER

Bangalore,
Dated, the 26th September, 2023.

/*Desai S Murthy /*

Copy to:

1. Appellant 2. Respondent 3. CIT 4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.