

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

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

ITA No. 1733/MUM/2001
Assessment Year: 1997-98
&
ITA No. 2205/MUM/2004
Assessment Year: 1998-99
&
ITA No. 3925/MUM/2004
Assessment Year: 1999-2000
&
ITA No. 5017/MUM/2004
Assessment Year: 2000-01
&
ITA No. 7560/MUM/2004
Assessment Year: 2001-02
&
ITA No. 581/MUM/2007
Assessment Year: 2003-04

Dy. DIT(IT)-1(1),
Room No. 117, Scindia House,
N.M. Road, Ballard Pier,
Mumbai-400001.

Appellant

M/s Abu Dhabi Commercial
Bank Ltd.,
Vs. 75-B, Rehmant Manzil Veer
Nariman Road,
Mumbai-400020.
PAN No. AAACA 4216 B
Respondent

CO No. 115/MUM/2004
(Arising out of ITA No. 2205/MUM/2004)
Assessment Year: 1998-99
&
CO No. 414/MUM/2004
(Arising out of ITA No. 3925/MUM/2004)



Assessment Year: 1999-2000
&
CO No. 48/MUM/2005
(Arising out of ITA No. 5017/MUM/2004)
Assessment Year: 2000-01
&
CO. No. 227/MUM/2005
(Arising out of ITA No. 7560/MUM/2004)
Assessment Year: 2001-02
&
CO No. 114/MUM/2007
(Arising out of ITA No. 581/MUM/2007)
Assessment Year: 2003-04

M/s Abu Dhabi Commercial
Bank Ltd.,
75-B, Rehmant Manzil Veer
Nariman Road,
Mumbai-400020.
PAN No. AAACA 4216 B
Appellant

Dy. DIT(IT)-1(1),
Room No. 117, Scindia House,
N.M. Road, Ballard Pier,
Mumbai-400001.
Vs.
Respondent

ITA No. 6530/MUM/2006
Assessment Year: 2003-04
&
ITA No. 3463/MUM/2010
Assessment Year: 2004-05

M/s Abu Dhabi Commercial
Bank Ltd.,
75-B, Rehmant Manzil Veer
Nariman Road,
Mumbai-400020.
PAN No. AAACA 4216 B
Appellant

Dy. DIT(IT)-1(1),
Room No. 117, Scindia House,
N.M. Road, Ballard Pier,
Mumbai-400038.
Vs.
Respondent



Assessee by : Ms. Riddhi Maru/Kinjal Patel
Revenue by : Mr. Anil Sant, Sr. DR

Date of Hearing : 18/10/2023
Date of pronouncement : 26/10/2023

ORDER

PER BENCH

The captioned appeals by the Revenue /assessee and cross objections of the assessee were already disposed off by the Income-tax Appellate Tribunal (in short the 'Tribunal') by way of various orders. However, on further appeal(s) by the Income-tax Department before the Hon'ble Bombay High Court, the issue of exemption of interest income u/s 10(15) of the Income-tax Act, 1961 (in short 'the Act') whether on 'gross basis' or 'net basis', has been restored back to the Tribunal for fresh consideration. The list of the order(s) of the Tribunal challenged by the Revenue and the date or respective order(s) of the Hon'ble High Court submitted by the assessee is reproduced below :

Sr. No.	AY	Department Appeal No.	Date of Tribunal decision	ITA T Bench	High Court Appeal No.	Date of order of the High Court
1.	1997-98	1733/Mum/2001	14 February 2007	I	ITXA (L) 1848 of 2008	19 March 2012
2.	1998-99	2205/Mum/2004	20 July 2012	L	ITXA (L) 2129 of 2012	6 March 2013
3.	1999-00	3925/Mum/2004	20 July 2012	L	ITXA (L) 2130 of 2012	6 March 2013
4.	2001-02	5017/Mum/2004	20 July 2012	L	ITXA (L) 2132	6 March



					of 2012	2013
5.	2001-02	7560/Mum/2004	10 July 2013	L	ITXA (L) 2401 of 2013	22 February 2016
6.	2003-04	581/Mum/2004	3 August 2012	L	ITXA (L) 2079 of 2012	6 March 2013

2. The Hon'ble High Court has decided the issue in dispute in assessment year 1997-98 in ITXA No. 969 of 2010 and same has been followed in remaining appeals. The relevant finding of the Hon'ble Bombay High Court in assessment year 1997-98 is reproduced as under:

"3 During the course of the hearing, Counsel appearing on behalf of the Revenue and the Assessee have agreed that the decision of the Tribunal on Issue No.7 may be set aside by consent and restored to the file of the Tribunal for reconsideration. Issue No.7 as recorded by the Tribunal reads as under:

"Issue No.7 is regarding direction of learned CIT(A) to the Assessing Officer to grant exemption to the assessee u/s. 10(15) on gross receipts ignoring the facts that it amounts to double deduction of expenses i. e. as a part of exemption of gross tax free interest and also u/s. 36(1)(iii) and 37(1). This issue has been raised by the revenue as per ground No.3 in A. Y. 1997-98. 4

*4. Accordingly, we set aside by consent the decision of the Tribunal on Issue No.7 and restore the proceedings back to the Tribunal for **fresh consideration keeping in view and considering the applicability of the Judgment of this Court in Godrej and Boyce Mig. Co. Ltd. Vs. Deputy Commissioner of Income Tax and another [2010 1 328 ITR 81 (Bom.)** In that view of the matter, it is not necessary for this Court to express any opinion on the questions of law raised in the present appeal. The rights and contentions of the parties are kept open."*

(emphasis supplied externally)

2.1 In view of the direction of the Hon'ble Bombay High Court (supra) these appeals and cross objections have been instituted by way of the order of the Tribunal dated 27.09.2023 and listed by the registry for hearing before us. Accordingly, both parties have been



heard and relevant material on record has been perused. Since, the Hon'ble Bombay High Court has followed its finding in assessment year 1997-98 , in its decision for other years , therefore, we take up the appeal for AY 1997-98 as the lead case and decision of which shall be followed in other appeals, *mutasis mutandis*.

3. Briefly stated facts qua the issue in dispute are that the assessee is a commercial bank having its head office in United Arab Emirates (UAE). For the captioned assessment years, the assessee had earned certain exempted income such as interest, dividend etc. and accordingly had claimed exemption on gross basis u/s 10(15)/10(33) of the Act. The Assessing Officer held that interest income is exempt on net basis u/s 10(15) of the Act. Thus, after reducing expenditure incurred for earning of such interest income, the Assessing Officer disallowed the interest expenditure incurred during the year on proportionate basis. On further appeal, the Ld. CIT(A) held that there are sufficient funds for financing the securities and therefore, no portion of the interest expenditure could be disallowed by the Assessing Officer. The Ld. CIT(A) observed that the Assessing Officer has not even established any nexus between the interest expenditure and exempt income. On further appeal by the Department before the Tribunal, it was held that interest u/s 10(15) of the Act was exempted on 'gross basis'. When the appeal for assessment year 1997-98 came up before the



Hon'ble High Court, the Hon'ble High Court without divulging into controversy whether the interest income should be exempted on gross or net basis remanded the issue back to the Tribunal for fresh consideration with the direction to consider the applicability of the judgment in the case of the **Godrej and Boyce Mfg. Co. Ltd. v. DCIT [2010] 328 ITR 81 (Bom)**.

4. Before us, the Ld. Counsel of the assessee submitted that **firstly**, in view of the decision of the Hon'ble Bombay High Court in the case of DIT v. Credit Agricole Indosuez (377 ITR 102), the interest income should be exempted u/s 10(15) of the Act on the 'gross basis'. **Secondly**, he submitted that in view of the interest free own funds available with the assessee bank exceeding the investment in tax free securities, the investment would be presumed to make out of assessee's own fund and therefore, no disallowance for interest expenditure made by the Assessing Officer can be sustained. **Thirdly**, he submitted that in assessee's own case for assessment year 2004-05 to assessment year 2006-07, the Tribunal has considered the decision of the Godrej and Boyce Mfg. Co. Ltd. (supra) and ultimately had upheld the disallowance at the rate of 2% of the exempted income u/s 14A of the Act. The Ld. Counsel further submitted that issue of disallowance u/s 14A of the Act came up for consideration before the Hon'ble Jurisdictional High Court in the case of **CIT Vs Merck Limited (ITA No. 105 of**



2014) and CIT v. HSBC Invest Direct (India) Ltd. (ITA No. 1026 of 2014) , wherein after considering the decision of the Godrej and Boyce Mfg. Co. Ltd. (supra), the Hon'ble High Court has categorically upheld that it would be fair and reasonable to disallow 1% of the exempted income and accordingly he prayed that in the case of the assessee disallowance of 1% of the exempted income u/s 14A of the Act would be reasonable and fair in the light of the decision in the case of Godrej and Boyce Mfg. Co. Ltd. (supra).

5. On the other hand the Ld. Departmental Representative (DR) submitted that the disallowance of 1% should be restricted to cover the administrative expenses whereas for the disallowance of quantum of interest should be decided in the light of the para 72 of decision of the Hon'ble Bombay High Court in the case of Godrej and Boyce Mfg. Co. Ltd. (supra) in.

6. We have heard rival submissions of the parties and perused the relevant material on record. In view of the direction of the Hon'ble Bombay High Court for adjudicating the issue considering the applicability of the judgment of the Hon'ble Bombay High Court in the case of Godrej and Boyce Mfg. Co. Ltd. (supra), we restrict ourselves to the disallowance of expenditure for earning the exempted income in the light of the decision of Hon'ble Supreme court in the case of Godrej and Boyce Mfg. Co. Ltd. (supra), which could be disallowed in the case of the assessee and not going into



the issue whether interest income u/s 10(15) is liable for tax on gross basis or net basis as held in the case of DIT v. Credit Agricole Indosuez, which has been cited by the assessee before us. The relevant finding of the Hon'ble Bombay High Court in the case of Godrej and Boyce Mfg. Co. Ltd. (supra) is reproduced as under:

"72. The precedents on which reliance has been placed by the assessee would have now to be analyzed. The Supreme Court in its judgment in Radhasoami Satsang (supra) held that res judicata does not apply to income tax proceedings since each assessment year is a unit. However, where a fundamental aspect permeating through different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging that order, it would not be appropriate to allow the position to be changed in a subsequent year, in the absence of any material change justifying the Revenue VBC 115 ITXA626.10 to take a different view of the matter. Moreover, in the concluding part of the judgment the Supreme Court has held that this decision "is confined to the facts of the case and may not be treated as an authority on aspects which have been decided for general application"⁴⁶. The decision of the Supreme Court in Munjal Sales Corporation (Supra) turned purely on the facts of the case. The Supreme Court noted that the opening balance as on 1 April 1994 was Rs.1.91 Crores whereas the loan given to a sister concern was a small amount of Rs.5 lacs. The profits earned by the assessee during the relevant year were held to be sufficient to cover the loan of Rs.5 lacs. In the decision of the Division Bench of this Court in Reliance Utilities (supra) the Division Bench has held that "if there be interest free funds available to an assessee sufficient to meet its investments and at the same time the assessee had raised a loan it can be presumed that the investments were from the interest free funds available". The decision of the Division Bench turned on a finding of fact by the Tribunal that there were sufficient interest free funds available in that case. The judgment in Reliance Utilities shows that there were interest free ⁴⁶ at page 329. Pharmaceutical Works Ltd. v. Commissioner of Income Tax⁴⁷ the Supreme Court in the facts of the case refused to draw any such presumption. In the case of the assessee, the learned Additional Solicitor General has submitted that the reference is made only to reserves and there is no mention of interest free funds. It has been urged that reserves are shown on the liabilities side of the balance-sheet and are represented by a variety of assets on the assets side. These assets could be fixed or non liquid assets and hence not investible. The real enquiry is whether there are interest free funds available on the assets side and in the absence of sufficient proof of available interest free funds, no such presumption can be drawn.



Moreover, it has been urged that after the introduction of Section 14A(1), no such presumption can in any event be drawn, since Parliament expressly requires apportionment. We recapitulate our conclusions on this point thus:

a) The ITAT had recorded a finding in the earlier assessments that the investments in shares and mutual funds have been made out of own funds and not out of borrowed funds and that there is no nexus between the investments and the borrowings. However, in none of those decisions was the disallowability of expenses incurred in relation to exempt income earned out of investments made out of own funds considered. Moreover, under Section 14A, expenditure incurred in relation to exempt income can be disallowed only if the assessing officer is not satisfied with the correctness of the expenditure claimed by the assessee. In the present case, no such exercise has been carried out and, therefore, the Tribunal was justified in remanding the matter.

b) Section 14A was introduced by the Finance Act 2001 with retrospective effect from 1 April 1962. However, in view of the proviso to that Section, the disallowance thereunder could be effectively made from assessment year 2001-2002 onwards. The fact that the Tribunal failed to consider the applicability of Section 14A in its proper perspective, for assessment year 2001-2002 would not bar the Tribunal from considering disallowance under Section 14A in assessment VBC 118 ITXA626.10 year 2002-2003.

c) The decisions reported in *Sridev Enterprises (supra)*, *Munjil Sales Corporation (supra)* and *Radhasoami Satsang (supra)* holding that there must be consistency and definiteness in the approach of the revenue would not apply to the facts of the present case, because of the material change introduced by Section 14A by way of statutory disallowance in certain cases. Therefore, the decisions of the Tribunal in the earlier years would have no relevance in considering disallowance in assessment year 2002-2003 in the light of Section 14A of the Act.

73. For the reasons which we have indicated, we have come to the conclusion that under Section 14A(1) it is for the Assessing Officer to determine as to whether the assessee had incurred any expenditure in relation to the earning of income which does not form part of the total income under the Act and if so to quantify the extent of the disallowance. The Assessing Officer would have to arrive at his determination after furnishing an opportunity to the assessee to produce its accounts and to place on the record all VBC 119 ITXA626.10 relevant material in support of the circumstances which are



considered to be relevant and germane. For this purpose and in light of our observations made earlier in this section of the judgment, we deem it appropriate and proper to remand the proceedings back to the Assessing Officer for a fresh determination.

Conclusion :

74. Our conclusions in this judgment are as follows :

i) Dividend income and income from mutual funds falling within the ambit of Section 10(33) of the Income Tax Act 1961, as was applicable for Assessment Year 2002-03 is not includible in computing the total income of the assessee. Consequently, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to such income which does not form part of the total income under the Act, by virtue of the provisions of Section 14A(1);

ii) The payment by a domestic company under Section 115O(1) of additional income tax on profits declared, distributed or paid is a charge on a component of the profits of the VBC 120 ITXA626.10 company. The company is chargeable to tax on its profits as a distinct taxable entity and it pays tax in discharge of its own liability and not on behalf of or as an agent for its shareholders. In the hands of the shareholder as the recipient of dividend, income by way of dividend does not form part of the total income by virtue of the provisions of Section 10(33). Income from mutual funds stands on the same basis;

iii) The provisions of sub sections (2) and (3) of Section 14A of the Income Tax Act 1961 are constitutionally valid;

iv) The provisions of Rule 8D of the Income Tax Rules as inserted by the Income Tax (Fifth Amendment) Rules 2008 are not ultra vires the provisions of Section 14A, more particularly sub section (2) and do not offend Article 14 of the Constitution;

v) The provisions of Rule 8D of the Income Tax Rules which have been notified with effect from 24 March 2008 shall apply with effect from Assessment Year 2008-09;

vi) Even prior to Assessment Year 2008-09, when Rule 8D was not applicable, the Assessing Officer has to enforce the VBC 121 ITXA626.10 provisions of sub section (1) of Section 14A. For that purpose, the Assessing Officer is duty bound to determine the expenditure which has been incurred in relation to income which does not form part of the total income under the Act. The Assessing Officer must adopt a reasonable basis or



method consistent with all the relevant facts and circumstances after furnishing a reasonable opportunity to the assessee to place all germane material on the record;

vii)The proceedings for Assessment Year 2002-03 shall stand remanded back to the Assessing Officer. The Assessing Officer shall determine as to whether the assessee has incurred any expenditure (direct or indirect) in relation to dividend income / income from mutual funds which does not form part of the total income as contemplated under Section 14A. The Assessing Officer can adopt a reasonable basis for effecting the apportionment. While making that determination, the Assessing Officer shall provide a reasonable opportunity to the assessee of producing its accounts and relevant or germane material having a bearing on the facts and circumstances of the case.”

6.2 In the case of the assessee for assessment year 2004-05 and 2005-06, the Tribunal has restricted the disallowance to the extent of the 2% of the exempted income u/s 14A of the Act. the relevant finding of the Tribunal in order dated 29/04/2016 in ITA No. 4296 to 4928/Mum/2009 is reproduced as under:

“2.4.2. At the outset, it is humbly submitted that in the Assessee's own case for AY 2004-05 to AY 2006-07 (ITA Nos 4926 to 4928/Mum/2009)- Date of order- 29 April 2016, the Hon'ble Jurisdictional Tribunal has considered the decision of Godrej & Boyce Mfg. Co. Ltd (supra) and ultimately held that the disallowance of 2% of exempt income u/s 14A of the Act shall be reasonable.

“9. Heard both sides and perused the orders of the lower authorities. In view of the decision of the Hon'ble Jurisdictional High Court in the case of Godrej & Boyce Co. Ltd., (supra) Rule 8D has no application for the assessment year 2004-05. However, reasonable disallowance should be made towards expenditure attributable for earning exempt income. It is the submission of the Ld. Counsel that in the case of DDIT Vs Development Bank of Singapore (33 Taxman.com 300), 2% of dividend income is held to be reasonable for earning exempt income. Respectfully following the above decision, we hold that 2% of dividend income will be reasonable expenditure for earning exempt income. This ground of the assessee is partly allowed.”



(Emphasis supplied)

6.3 Further the finding of the Hon'ble Bombay High Court in the case of CIT v. Merck Ltd. (supra) is reproduced as under:

"4...(d) We find that this Court in Godrej and Boyce Manufacturing Co. Ltd. Vs. DCIT 328 ITR Page 81 has held that prior to assessment year 2008-09, disallowance under Section 14A of the Act has to be on reasonable basis and not on application of Rule 8D of the Income Tax Rules which was introduced into Statute book only in April 2007. In the above view the submission urged on behalf of the Revenue is in substance seeking to apply Rule in the face of the order of this Court in Godrej and Boyce Manufacturing Co. Ltd. (supra). This is an attempt to do indirectly that which is prohibited from being directly done. The Revenue has not been able to show why the percentage of disallowance at 1% of the exempt income under Section 144 is perverse. The view taken by the Tribunal of restricting disallowance of expenditure to 1% of the exempt income is on facts a possible view on the principle of reasonable disallowance.

(Emphasis supplied)

6.4 The finding of the Hon'ble Bombay High Court In the case of CIT v. HSBC Invest Direct (India) Ltd. (supra) is reproduced as under:

"5... (a)The impugned order of the Tribunal has allowed the respondent assessee's appeal by following the decision of this Court in Godrej & Boyce Manufacturing Co. Ltd. Vs. DCIT, 328 ITR 81 (Bom). In the above case, it has been held that for the assessment years prior to Assessment Year 2008-09, Rule 8D of the Income Tax Rule will not be invoked to work out the disallowance of expenditure under Section 14A of the Act. The Court held that till Assessment Year 2008-2009, the disallowance of expenditure has to be done on a reasonable basis.

(b) The impugned order of the Tribunal on application of the reasonable method, disallowed expenditure to the extent of 1% of exempted dividend income under Section 14A of the Act.

(c) In the above view, as the impugned order of the Tribunal has merely followed the decision of this Court Godre & Boyce (supra) the question proposed does not give rise of any substantial question of law."



(Emphasis supplied)

6.5 In view of the finding of the Hon'ble High Court reproduced above, we agree with the contention of the Ld. Counsel of the assessee that disallowance in respect expenses incurred for earning interest income should be restricted to 1% of the exempted income, but that restriction shall be applied to administrative expenses only. As far as interest expenditure for earning interest income exempted u/s 10(15) of the Act is concerned, in view of the para 72 of the Hon'ble Bombay High Court in the case of **Godrej and Boyce Mfg. Co. Ltd. (supra)**, it is required to make inquiry as to whether there are interest free funds available on the asset side and merely availability of reserve and surplus is not sufficient to justify availability of own fund for investment. Therefore, the issue of disallowance of the interest expenditure has to be decided accordingly. Though we are aware that matters are very old but, no such details of actual availability of the liquid funds for investment which yielded interest free income, have been filed before us by the assessee, therefore, we feel it appropriate to restore this issue back to the file of the Assessing Officer for deciding in the light of the decision of the Hon'ble Bombay High Court in the case of Godrej and Boyce Mfg. Co. Ltd. (supra).

6.6 Thus, in the result, the relevant grounds related to the issue of interest income to be exempted u/s 10(15) of the Act on the 'gross'



or 'net' basis, remitted by the Hon'ble High court in the appeals of the Revenue for the assessment years 1997-98 to 2003-04, are disposed off as indicated above.

6.7 At the cost of repetition, once again we make it clear that our decision above shall be limited to the appeals , which have been remitted by the Hon'ble Bombay high Court to the Tribunal . In case of other appeals and cross objections, where this issue of exemption of interest income u/s 10(15) of the Act is not involved, we don't have any authority to interfere and the order(s) passed by the Tribunal (supra) on earlier occasion in those appeals and cross objection(s) would stand valid. The reinstatement of those appeals and cross objections is accordingly infructuous.

7. Before us the Ld Counsel for the assessee submitted that appeal for AY 1998-99 by the department before the Hon'ble High Court stands withdrawn by way of order of Hon'ble High Court dated 6/04/2023 in ITA no. 616 of 2013, in view of low tax effect and hence it has become infructuous. The relevant order of the Hon'ble High Court is reproduced as under:

"1. On perusal of the papers, it appears that tax in the present appeal is stated to be valued at Rs. 78,99,575/- and therefore, is below the limit of Rs. One Crore as prescribed under Circular No. 17 of 2019 dated 8th August, 2019.

2. In view of this, the learned Counsel for the appellant seeks to withdraw the appeal. The appeal stands dismissed as withdrawn with liberty to the appellant to approach this Court again for



revival of the present appeal in case the Revenue for any plausible reason finds that the appeal was not to be withdrawn.”

7.1 On perusal of the order of the Hon'ble High Court dated 6/04/2023 in ITA no. 616 of 2013, it is not clear whether the same is in respect of relevant issue-in-dispute for AY 1998-99 as the Hon'ble High Court has already disposed off the appeal for AY 1998-99 involving the relevant issue in dispute in ITA No. 2129 of 2012 on 6/03/2013 and matter has been restored to the file of the Tribunal following the finding in AY 1997-98. The relevant finding of the Hon'ble High Court in ITA No. 2129 of 2012 is reproduced as under:

“2. In these appeals by the Revenue for assessment years 1998-99 and 2000-01, following common questions of law have been framed for our consideration.

“a) Whether on the facts and circumstances of the case and law, the Tribunal was justified in upholding the order of the CIT (A) in allowing exemption of interest under Section 10(15) on gross basis?

b. Whether on the facts and circumstances of the case and laws Tribunal was correct in allowing the entire Head office expenses ca per Article 7(3) of the convention between Government of UAE and the Government of India instead of allowing these expenses us per provision of Section 44C of the Income Tax Act, 1961?

c. Whether on the facts and circumstances of the case and law, the Tribunal was correct in deleting the addition made by the AO on account of Guarantee Commission as assessee bank receives no right in subsequent year for any Guarantee Commission whereas it an advance Commission received?

3. In so far as question (a) is concerned, counsel for the parties state that the Tribunal by the impugned order followed its decision in the respondent - assessee's own case for the



assessment year 1997-98. Being aggrieved by the order of the Tribunal for assessment year 1997-98, the Revenue preferred an appeal to this Court being Income Tax Appeal No.969 of 2010.

By an order dated 19th March 2012, this Court had restored the issue to the file of the Tribunal for re-adjudication. In view of the above, we restore the issue in question (a) to the file of the Tribunal for fresh decision keeping in view the directions contained in our order dated 19th March 2012 passed in Income Tax Appeal No.969 of 2010.

4. In so far as question (c) is concerned, counsel for the parties state that this Court has refused to entertain similar question raised in the matter of Director of Income Tax (IT) - 11 V/s.M/s.BNP Paribas SA, being Income Tax Appeal (L) No.1776 of 2012 decided on 14 February 2013. For the reasons mentioned in our order dated 14th February 2013 in Income Tax Appeal (L) No.1776 of 2012, we see no reason to entertain question (e).

5. Both the appeals are admitted on question (b).”

7.2 The assessee has not filed before us details of pleading before the Hon'ble High Court in ITA No. 616 of 2013 and therefore, we are unable to adjudicate on this plea of the assessee.

8. In the result, all the appeals and cross objections are disposed off as indicated above.

Order pronounced in the open Court on 26/10/2023.

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai;
Dated: 26/10/2023
Rahul Sharma, Sr. P.S.

Abu Dhabi Commercial Bank Ltd. 17
ITA Nos. 1733/Mum/2001, 2205/M/2004,
3925/M/2004, 5017, 7560/M/2004, 581/M/2007
CO. No. 115, 414/M/2004, 48, 227/M/2005, ITA
No. 6530/M/2006 and 3463/M/2010



Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai