

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **620/Chny/2020**

निर्धारण वर्ष / Assessment Year: 2017-18

M/s. Karur Vysya Bank,
Finance & Control Dept.,
Erode Road,
Karur – 639 002.

[PAN: AACT-3373-J]

(अपीलार्थी/Appellant)

Deputy Commissioner of Income
v. Tax,
Circle -2(1),
Trichy.

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.: **635/Chny/2020**

निर्धारण वर्ष / Assessment Year: 2017-18

The Joint Commissioner of
Income Tax,
Circle -2,
No.44, Williams Road,
Contanment,
Trichy – 620 001.

(अपीलार्थी/Appellant)

M/s. Karur Vysya Bank,
v. Finance & Control Dept.,
Erode Road,
Karur – 639 002.

[PAN: AACT-3373-J]

(प्रत्यर्थी/Respondent)

Assessee by : Shri. Ananthan, CA & Smt. R. Lalitha, CA
Department by : Shri. Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing : 05.08.2024

घोषणा की तारीख/Date of Pronouncement : 20.09.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

These two cross appeals filed by the assessee, and revenue are directed against the order passed by the learned Commissioner of Income Tax (Appeals)-1, Trichy, dated 16.03.2020 and pertains to

assessment year 2017-18. Since, facts are identical and issues are common, for the sake of convenience, the appeals filed by the assessee and as well as revenue are being heard together and disposed off, by this consolidated order.

2. The Registry has noted delay of 22 days in appeal filed by the assessee in ITA No. 620/Chny/2020 and 38 days delay in appeal filed by the revenue in ITA No. 635/Chny/2020, the condonation of which has been sought by Ld. AR and the Id.DR respectively, on the ground that the delay occurred due to lockdown situation arising out of Covid-19 Pandemic and the period of delay falls in the exclusion period commencing from 15.03.2020 to 28.02.2022. Keeping in view the adverse situation arising out of Covid-19 pandemic, we condone the delay and admit both the appeals for adjudication.

ITA. No. 620/Chny/2020 for AY 2017-18:

3. The grounds of appeal filed by the assessee for A.Y.2017-18 are reproduced as under:

1. *The order of the learned CIT(A) is against law and facts of the case.*
2. *The learned CIT(A) erred in sustaining the addition made by the learned Assessing Officer of Rs.2,92,42,379/- being depreciation on equity shares – restructured.*

- 2.1. *The learned CIT(A) failed to appreciate the fact that the Appellant followed Reserve Bank of India guidelines as mandated by ICDS and section 145 of the Income Tax Act, 1961.*
- 2.2. *The learned CIT(A) erred in relying on CBDT circular which is contrary to the provisions of section 145 and ICDS.*
- 2.3. *The learned CIT(A) erred in holding that the depreciation on equity shares and preference shares received on restructured accounts should be adjusted against the appreciation on other equity shares.*
3. *The learned CIT(A) erred in enhancing the Total Income by disallowing the depreciation on Security Receipts (SRs) of Rs.36,57,40,426/-*
 - 3.1. *The learned CIT(A) failed to appreciate the fact that the Appellant followed Reserve Bank of India guidelines as mandated by ICDS and section 145 of the Income Tax Act, 1961.*
 - 3.2. *The order of the learned CIT(A) is based on surmises & conjunctures.*
 - 3.3. *The learned CIT(A) failed to appreciate the fact that once a loan account is sold to ARC the borrower account is closed in the books of the bank.*
 - 3.4. *The learned CIT(A) failed to appreciate the fact that the investment in SR is a separate transaction and is treated as investments as per RBI guidelines.*
 - 3.5. *The learned CIT(A) erred in deeming SRs as bad loans without there being any deeming provision in the Act.*
 - 3.6. *The learned CIT(A) erred in treating the depreciation on SRs as write off of bad debt and adjusting the same against the Provision account u/s.36(1)(viia).*
 - 3.7. *Without prejudice to the above the learned CIT(A) failed to appreciate the fact that the proviso to section 36(1)(vii) is not applicable to the depreciation on SRs of Rs. 36,57,40,426/-.*
4. *The learned CIT(A) erred in law in disallowing the bad debts claim u/s 36(1)(vii) amounting to Rs. 264,88,89,819/-.*

- 4.1. *The learned CIT(A) erred in disallowing the non-rural debts written off by the Appellant bank, which are not covered by the proviso to section 36(1)(vii).*
- 4.2. *The learned CIT(A) erred in disallowing the bad debts claim by holding that deduction in respect of the bad debts actually written off under section 36(1)(vii) shall be limited to the amount by which such bad debts exceed the credit balance in the provision for bad and doubtful debts account made under Section 36(2)(v).*
- 4.3. *The learned CIT(A) failed to appreciate the fact that non rural debts are not controlled by the proviso to Section 36(1)(vii) even after insertion of Explanation – 2 to section 36(1)(vii) by the Finance Act, 2013.*
- 4.4. *The learned CIT(A) erred in holding that the prudential write off of Rs. 103,67,40,537/- cannot be allowed as deduction as the same was not debited to P&L A/c.*
- 4.5. *The learned CIT(A) failed to appreciate the fact that the prudential write off has to be considered as write off as decided by the Hon'ble Supreme Court in the case of Vijaya Bank vs. CIT [2010] 323 ITR 166 (SC).*
- 4.6. *Without prejudice to Ground No. 4.3, the learned CIT(A) erred in disallowing the bad debts written off in respect of debts identified as NPAs for the first time amounting to Rs.156,66,01,315/- and the learned CIT(A) failed to appreciate the fact that these debts are not covered by the Proviso to section 36(1)(vii).*
- 4.7. *Without prejudice to the above, the learned CIT(A) failed to appreciate the fact that the closing balance in the provision account as on 31-03-2013 was for rural debts and non-rural write off cannot be adjusted against the same.*
- 4.8. *Without prejudice to the above, the learned CIT(A) erred in adjusting the bad debts write off against the current year provision.*
5. *Without prejudice to Ground No. 4, the learned CIT(A) erred in taxing the recovery from written off accounts of Rs. 8,93,95,305/-.*
 - 5.1. *The learned CIT(A) failed to appreciate the fact that this amount cannot be taxed u/s 41(4) since no deduction of the bad*

debts written off were allowed u/s.36(1)(vii) and the recovery was from those debts.

For all these and other grounds, which may be urged at the time of hearing, the appellant pray that its appeal be allowed.

6. *The learned Assessing Officer be directed to allow deduction of Rs. 10,42,19,811/- being the Education Cess & Secondary & Higher Education Cess paid during the Previous Year 2016-17 relevant to Assessment year 2017-18 in computing the taxable income."*

5. The brief facts of the case are that, the appellant is a private sector bank engaged in the business of providing banking services. During the previous year relevant to the AY under appeal, the appellant bank filed its Return of Income on 29/10/2017 by admitting an income of Rs.1046,46,95,070/- and book profit of Rs.1121,72,59,031/-. It subsequently revised its return on 06/10/2018 admitting income of Rs.1033,92,66,950/- and no change in Book Profit u/s.115JB.

6. The case was selected for scrutiny by issuing notice u/s 143(2). The Scrutiny assessment u/s 143(3) was completed on 01/03/2019 by the Deputy Commissioner of Income Tax, Trichy. In the assessment made u/s 143(3), the Assessing Officer, the respondent herein, made several additions and disallowances and determined the Income under regular provisions at Rs.1262,32,55,760/- and deemed income u/s 115JB at Rs.1121,72,59,031/-. In the assessment, the learned AO made the

following additions to the total income under the regular computation:

Sl.No.	Particulars	Amount in Rs.
1	Depreciation on investments	2,92,42,379
2	Disallowance on provision for Bad and Doubtful debts u/s 36(1)(viia)	118,61,29,245
3	Disallowance u/s. 36(1)(vii)	73,48,83,942
4	Disallowance u/s. 14A	1,09,85,212
5	Stale Draft account	30,27,690
6	Disallowance of ex-gratia	29,59,64,696
7	Addition on income received in advance	2,37,55,647
	Total disallowance/addition	228,39,89,811

7. Being aggrieved by the assessment order, the assessee preferred an appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee has challenged various additions made by the AO. During the appellate proceedings, the Id. CIT(A) vide their letter dated 02/03/2020, issued enhancement notice to the assessee on certain issues including disallowance of excess claim of depreciation on security receipts(SRs) and disallowance u/s.36(1)(vii) of the Act. The assessee challenged proposed enhancement of assessment on legal ground as well as various additions proposed by the Id. CIT(A). The Id. CIT(A), after considering relevant submissions of the assessee and also taken note of various provisions of law disposed off appeal filed by the assessee by partly enhancing the total income and also deleted certain additions including addition towards stale

drafts account, disallowance of exgratia, disallowance u/s.14A, income received in advance and disallowance under Section 36(1)(viiia). However, sustained additions made towards disallowance of bad debts written off and depreciation on investments. The Id. CIT(A) had also enhanced the assessment and directed the AO to make additions towards disallowance of excess claim of depreciation on security receipts and disallowance of bad debts written off (prudential write – off). Aggrieved by the Id. CIT(A) order, the assessee as well as the revenue are in appeal before us.

8. The first issue that came up for our consideration from ground No. 2.1 to 2.3 of assessee appeal is disallowance on equity shares – restructured of Rs.2,92,42,379/-.

8.1 The assessee has claimed deduction of depreciation on equity shares – restructured based on Reserve Bank of India (RBI) guidelines. The Assessing Officer disallowed the same on the ground that, the depreciation on equity shares is to be adjusted against the appreciation of the equity shares. The AO noticed that there was appreciation in the equity shares held by the Bank. He relied on the CBDT Instruction no. 17/2008 dated 26/11/2008 in this regard.

8.2 The Ld. Counsel for the assessee, Shri. S. Ananthan, CA and R. Lalitha, CA, submitted that the Bank is bound to follow the Income Computation and Disclosure Standards (ICDS) notified vide Notification No. 87/2016 dated 29/9/2016 with effect from the impugned AY. It is their submission that Part B of ICDS VIII is applicable to Banks and as per the same, the valuation of the securities is to be carried out as per the RBI guidelines and any claim of deduction as per the said guidelines is allowable. It is only the excess claim over and above the guidelines are not allowed. It was further submitted that, as per the RBI guidelines, the depreciation on the shares obtained through restructuring of debt cannot be adjusted against the appreciation on other equity shares. The Id. Counsel drew our attention to Para 18.3 of the RBI circular dated 01/07/2015 at Page no. 54 of the Paper Book in support of his submissions

8.3 Per contra, the Id. CIT-DR relied on the orders of the lower authorities.

8.4 We heard the rival arguments and perused the materials on record. We note that the Government has notified ICDS vide Notification No.87/2016 dated 29/9/2016 with effect from the

impugned AY. We also note that Part-B of ICDS VIII deals with securities held by Banks. Para 3 of the said ICDS read as follows:

"Securities shall be classified, recognised and measured in accordance with the extant guidelines issued by the Reserve Bank of India in this regard and any claim for deduction in excess of the said guidelines shall not be taken into account. To this extent, the provisions of Income Computation and Disclosure Standard VI on the effect of changes in foreign exchange rates relating to forward exchange contracts shall not apply."

8.5 We note that the Banks shall classify, recognize and measure securities in accordance with the extant RBI guidelines and any claim for deduction shall not be allowed. In other words, the claim for deduction shall be limited as per the RBI guidelines. The RBI guidelines state that, depreciation on equity shares obtained on restructuring cannot be adjusted against the appreciation on other equity shares. In the instant case, we find that the assessee Bank had a depreciation of Rs.3,18,81,323/- on the equity shares – restructured and had an appreciation of Rs.26,38,943/- on the preference shares – restructured. The Bank adjusted the appreciation with that of the depreciation and claimed the net depreciation of Rs.2,92,42,379/-. This claim of the appellant Bank is as per RBI guidelines and therefore is allowable as per Part-B of ICDS VIII.

8.6 In view of the matter and considering the facts and circumstances of the case, we are of the considered opinion that the assessee is entitled for deduction towards the depreciation of the equity shares - restructured and thus, we delete the addition made by the AO and allow the ground taken by the assessee.

9. The next issue that came up for our consideration from ground no 3.1 to 3.7 of assessee appeal is towards enhancement by the CIT(A) of Rs.36,57,40,426/- by way disallowance of Depreciation on Security Receipts (SR) claimed by the appellant Bank.

9.1 The facts with regard to the impugned dispute are that the appellant had claimed a deduction of Rs.36,57,40,426/- being the depreciation on SR arrived at based on the RBI guidelines. The AO did not deal with this issue while completing the assessment. In the appellate proceedings, the Ld. CIT(A) issued a letter proposing to disallow this deduction claimed by the assessee and enhance the assessment in this regard. After considering the replies submitted by the assessee, the CIT(A) held that the same is not an allowable deduction as the fall in the value of SR was to be treated as bad debt and the same was to be taken to PBDD account.

9.2 The Ld. Counsel for the assessee submitted that the depreciation on the SRs which were received on the sale of NPA were classified as investments as per RBI guidelines. Further, they

were valued as per the RBI guidelines. They further submitted that the depreciation on the SRs is allowable based on the provisions of the ICDS. Without prejudice to this submission, the Ld. Counsel for the assessee made a technical objection that the enhancement by the Ld. CIT(A) itself is beyond the powers of the Ld. CIT(A) u/s.251 of the Act. It is the submission of the Ld. Counsel for the assessee that the power of the CIT(A) u/s.251(1)(a) of Act to enhance extends only to those items that were dealt by the AO in the assessment order. He submitted that though the power of the Ld. CIT(A) is co-terminus with that of the AO, new issues / additions / sources of income would fall outside the ambit of provisions of section 251 of the Act in regard to enhancement of income. The Ld. Counsel for the assessee, in written submissions, relied on the case law of Hon'ble Delhi High Court in the case of CIT vs. Sardari Lal & Co., [2001] 251 ITR 864 (Delhi) and argued that the Hon'ble Delhi High Court has categorically held that whatever the question of taxability of income from a new sources of income is concerned, which had not been considered by the AO in the assessment order, jurisdiction to deal with the same in appropriate cases may be dealt with u/s.147 or u/s.263 of the Act as the law mandates and if the requisite conditions are fulfilled but it is inconceivable that in presence of such specific provisions a similar power is available to

the first appellate authority u/s.251 of the Act. He also relied on various decisions including that of the Hon'ble Supreme Court. The Id. Counsel for the assessee further submitted that the issue of the power to enhance has been decided, on similar set of facts, in their own case by the co-ordinate Bench in ITA No.677/Chny/2019 for assessment year 2014-15 vide its order dated 9/4/2024.

9.3 The Id. DR, on the other hand relied on the order of the Ld. CIT(A). On the issue of the power of the CIT(A) to enhance, the Id. DR submitted that, the CIT(A) has been given powers to not only confirm, reduce, or annul the assessment, but even pass an order enhancing the income determined by the AO and the Courts have held that in terms of Section 251 of the Act, the CIT(A) has wide powers, which includes power of enhancement of assessment. The Id. DR further submitted that the powers conferred upon the CIT(A) was plenary in view of the explanation inserted by the Finance No (2) Act, 1977 and was different in its express wordings from the corresponding Section 31 of the Indian Income tax Act, 1922. He submitted that the decisions relied on by the Id. Counsel for the assessee were rendered without considering the Explanation to Section 251 of the Act. The Id. DR relied on the following case laws:-

- 1) Shapoorji Pallonji Mistry (SC) 44 ITR 891

- 2) Rai Bahadur Hardutroy Motilal Chamaria (SC) 66 ITR 443
- 3) Kanpur Coal Syndicate (SC) 52 ITR 229
- 4) State of TN vs. Arulmurugan and Co. (Madras HC) 51 STC 381
- 5) Megatrends Inc. (Madras HC) TS-93-HC-2016
- 6) The Villupuram District Central Co-operative Bank Ltd (Chennai ITAT) in ITA no 981/Chny/2020

9.4 We have heard the rival parties, perused the material available on record and gone through the orders of the authorities below. We find that this issue is purely a new issue raised by Ld.CIT(A) and this was never the subject matter of appeal before him or this was never discussed by the AO during assessment proceedings or even a whisper is not there in the assessment order about this issue. We also find that the co-ordinate Bench in the assessee's own case in ITA No.677/Chny/2019 (supra) has decided the issue in favour of the assessee on similar set of facts. In para 7.4, it was held as under:

"7.4 We have heard the rival parties, perused the material available on record and gone through the orders of the authorities below. We find that this issue is purely a new issue raised by CIT(A) and this was never the subject matter of appeal before him or this was never discussed by the AO during assessment proceedings or even a whisper is not there in the assessment order about this issue. Now, the question arises whether the CIT(A), whose powers are coterminous with those of the AO can go into the new issues altogether. We have gone through the provisions of section 251 of the Act and noted that the first appellate authority has plenary powers in disposing of an appeal and the scope of his powers is coterminous with that of the AO. He can do what the AO can do and can also direct the latter to do what the latter failed to do. This issue was considered by Hon'ble Madras High Court in the case of CIT vs. T.T Krishnamachari and Co., 223 ITR 224, wherein the Hon'ble High Court has held that the first appellate authority has all the powers which the original authority may have. In the absence of any

statutory provisions to the contrary, the appellate authority is vested with all the plenary powers which the sub-ordinate authority has in the matter. It was held by Hon'ble High Court that an item of income noticed by the officer, but not examined by him from the point of view of its taxability or non-taxability, cannot be said to have been considered by him. Consideration does not mean incidental or collateral examination of any matter by the officer in the process of assessment. There must be something in the assessment order to show that the officer has applied his mind to a particular subject matter or the particular sources of income with a view to its taxability or to its non-taxability and not to any incidental connection. As in the present case, the Hon'ble Madras High Court has considered that the sources was not new and which was already noticed by the AO, the Hon'ble High Court has upheld the order of the first appellate authority for making enhancement but the ratio laid down by the Hon'ble Madras High Court is very clear and categorical.

7.5 We have also gone through the case law of Hon'ble Supreme Court in the case of CIT vs. Shapoorji Pallonji Mistry, [1962] 44 ITR 891 (SC), wherein the Hon'ble Supreme Court has considered this issue and held that it would not be open to the first appellate authority to introduce into assessment a new source of income as his power of enhancement is restricted only to income which was subject matter of consideration for the assessment by the AO and for this, the Hon'ble Supreme Court noted the reasoning as under:-

"In our opinion, this Court must be held not to have expressed its final opinion on the point arising here, in view of what was stated at pp. 709 and 710 of the Report. This Court, however, gave approval to the opinion of the learned Chief Justice of the Bombay High Court that s. 31 of the Income-tax Act confers not only appellate powers upon the Appellate Assistant Commissioner in so far as he is moved by an assessee but also a revisional jurisdiction to revise the assessment with power to enhance the assessment. So much, of course, follows from the language of the section itself. The only question is whether in enhancing the assessment for any year he can travel outside the record, that is to say, the return made by the assessee and the assessment order passed by the Income-tax Officer with a view of finding out new sources of income, not disclosed in either. It is contended by the Commissioner of Income-tax that the word "assessment" here means the ultimate amount which an assessee must pay, regard being had to the charging section and his total income. In this view, it is said that the words "enhance the assessment" are not confined to the assessment reached through a particular process but the amount which ought to have been computed if the true total income had been found. There is no doubt that this view is also possible. On the other hand, it must not be overlooked that there are other provisions like s. 34 and 33B which enable escaped income from new sources to be brought to tax after

following a special procedure. The assessee contends that the powers of the Appellate Assistant Commissioner extend to matters considered by the Income-tax Officer, and if a new source is to be considered, then the power of remand should be exercised. By the exercise of the power to assess fresh sources of income, the assessee is deprived of a finding by two tribunals and one right of appeal.

The question is whether we should accept the interpretation suggested by the Commissioner in preference to the one, which has held the field for nearly 37 years. In view of the provisions of section 34 and 33b which escaped income can be brought to tax, there is reason to think that the view expressed uniformly about the limits of the powers of the Appellate Assistant Commission to enhance the assessment has been accepted by the legislature as the true exposition of the words of the section. If it were not, one would expect that the legislature would have amended section 31 and specified the other intention in express words. The Income-tax Act was amended several times in the last 37 years, but no amendment of section 31(3) was undertaken to nullify the rulings, to which we have referred. In view of this, we do not think that we should interpret section 31 differently from what has been accepted in India as its true import, particularly as that view is also reasonably possible.

7.6 Further, as cited by Id. Counsel for the assessee, the Hon'ble Delhi High Court in the case of Sardari Lal & Co, supra, wherein the Hon'ble Delhi High Court has considered the case laws cited by the Id. DR and finally held that no new source of income can be introduced by CIT(A) while deciding the appeal and enhancement of income. The Hon'ble Delhi High Court has considered this issue in great detail as under:-

"A similar question has been examined by the Apex Court as noted above, on several occasions. We do not think it necessary and appropriate to proliferate this judgment by making reference to all the decisions. A few of the important ones need to be noticed. One of the earliest decisions on the point was in CIT v. Shapoorji Pallonji Mistry (1962) 44 ITR 891 (SC). The matter related to the corresponding provisions of the Indian Income Tax Act, 1922 (hereinafter referred to as "the old Act"). It was held, inter alia, that in an appeal filed by the assessed, the Appellate Assistant Commissioner has no power to enhance the assessment by discovering a new source of income not considered by the Income Tax Officer in the order appealed against. A similar view was expressed in CIT v. Rai Bahadur Hardtroy Motilal Chamaria (1967) 66 ITR 443 (SC). That also related to a case under section 31(3) of the old Act. It was held that the power of enhancement under section 31(3) of the old Act was restricted to the subject-matter of the

assessment or the source of income, which had been considered expressly or by clear implication by the assessing officer from the point of view of taxability and that the Appellate Assistant Commissioner had no power to assess the source of income, which had not been taken into consideration by the assessing officer. It is to be noted that strong reliance was placed by learned counsel for the revenue on the decision of the Apex Court in CIT v. Nirbheram Daluram (1997) 224 ITR 610. It was submitted that a different view was expressed about the scope and ambit of the power of the first appellate authority vis-a-vis the sources considered by the assessing officer and even if the action of the first appellate authority related to a new source of income not considered by the assessing officer, it was not impermissible. It is to be noted that in Union Tyres' case (supra), this decision was also considered by this court in the background of what had been stated in Daluram's case (supra) and it was observed that there was really no difference from the view expressed earlier in Shapoorji Pallonji Mistry's case (supra) and Rai Bahadur Hardutroy Motilal Chamaria's case (supra).

The learned counsel for the revenue also submitted that this conclusion of the Division Bench needs a fresh look. We have considered this submission in the background of what had been stated by the Apex Court in Jute Corporation's case (supra) and Daluram's case (supra). In Jute Corporation's case (supra), the Apex Court while considering the question whether the Appellate Assistant Commissioner has the jurisdiction to allow the assessed to raise an additional ground in assailing the order of assessment before it, referred to Shapoorji's case (supra), and drew a distinction between the power to enhance tax on discovery of a new source of income and granting a deduction on the admitted facts supported by the decision of the Apex Court. Relying on certain observations made by the Apex Court in CIT v. Kanpur Coal Syndicate (1964) 53 ITR 225 (SC), the Apex Court held that powers of the first appellate authority are coterminous with those of the assessing officer and the first appellate authority is vested with all the wide powers, which the subordinate authority may have in the matter. In Daluram's case (supra), the decisions of Kanpur Coal's case (supra) and Jute Corporation's case (supra) were also considered and it was observed by the Apex Court that the appellate powers conferred on the first appellate authority under section 251 of the Act were not confined to the matter, which had been considered by the Income Tax Officer, as the first appellate authority is vested with all the wide powers of the assessing officer may have while making the assessment, but the issue whether these wide powers also include the power to discover a new source of income was not commented upon. Consequently, the view expressed in ShapoorjiPallonjiMistry's case (supra) and Rai Bahadur Hardutroy Motilal Chamaria's case (supra) still holds the feet. It may be noted that the issue was considered in CIT v. McMillan and Co. (1958) 33 ITR 182 (SC). Referring to a decision of the Bombay High Court in

Narondas Manordass v. CIT (1957) 31 ITR 909 (Bom), it was held that the language used in section 31 of the old Act is wide enough to enable the first appellate authority to correct the Income Tax Officer not only with regard to a matter which has been raised by the assessed but also with regard to a matter which has been considered by the assessing officer and determined in the course of the assessment. It is also relevant to note that in the Jute Corpn. of India Ltd.'s case (supra), the Apex Court, inter alia, observed as follows :

"..... The AAC, on an appeal preferred by the assessed, had jurisdiction to invoke, for the first time, the provisions of rule 33 of the Indian Income Tax Rules, 1922 (hereinafter referred to as 'the Rules'), for the purpose of computing the income of a non-resident even if the Income Tax Officer had not done so in the assessment proceedings. But, in Shapoorji Pallonji Mistri [1962] 44 ITR 891, this court, while considering the extent of the power of the Appellate Assistant Commissioner, referred to a number of cases decided by various High Courts including the Bombay High Court judgment in Narondas Manordass [1957] 31 ITR 909 and also the decision of this court in McMillan & Co. [1958] 33 ITR 182 and held that, in an appeal filed by the assessed, the AAC has no power to enhance the assessment by discovering new sources of income not considered by the Income Tax Officer in the order appealed against. It was urged on behalf of the revenue that the words 'enhance the assessment' occurring in section 31 were not confined to the assessment reached through a particular process but the amount which ought to have been computed if the true total income had been found. The court observed that there was no doubt that this view was also possible, but having regard to the provisions of sections 34 and 33B, which made provision for assessment of escaped income from new sources, the interpretation suggested on behalf of the revenue would be against the view which had held the field for nearly 37 years...." (p.692) [Emphasis, supplied].

Looking from the aforesaid angles, the inevitable conclusion is that whenever the question of taxability of income from a new source of income is concerned, which had not been considered by the assessing officer, the jurisdiction to deal with the same in appropriate cases may be dealt with under section 147/148 of the Act and section 263 of the Act, if requisite conditions are fulfilled. It is inconceivable that in the presence of such specific provisions, a similar power is available to the first appellate authority. That being the position, the decision in Union Tyres' case (supra) of this court expresses the correct view and does not need reconsideration. This reference is accordingly disposed of."

7.7 In view of the above case laws considered and facts of the case that the issue i.e., disallowance of depreciation on investment, was never

subject matter of assessment order. Hence, we are of the view that enhancement made by CIT(A) on altogether new issue is without authority of law and accordingly, we quash the enhancement. Since we have decided the issue on technical grounds, the issue on merits is left open."

9.5 Following the above decision of this Tribunal, we are of the view that enhancement made by CIT(A) on altogether new issue is without authority of law and accordingly, we quash the enhancement. Since we have decided the issue on technical grounds, the issue on merits is left open.

10. The next issue that came up for our consideration from ground No. 4.1 & 4.8 of assessee's appeal is deduction u/s.36(1)(vii) of the Act, in respect of bad debts actually written off in the books of accounts of the assessee.

10.1 The facts with regard to the impugned dispute are that, the assessee is a scheduled bank and has claimed deduction u/s.36(1)(vii) of the Act, in respect of provision for bad and doubtful debts. The assessee had also written off bad debts to the extent of Rs.265,26,42,160/- and claimed deduction u/s.36(1)(vii) of the Act, towards actual write off of bad debts totaling to Rs.264,88,89,819/- pertains to non rural branches. It adjusted Rs.37,52,341/- which pertains to rural branches against the provision account under Section 36(1)(vii). The Assessing Officer, however disallowed Rs.73,48,83,942/- by holding that the non - rural debts should also be adjusted against the provision account

under Section 36(1)(viia) on account of the Explanation 2 to Section 36(1)(vii). In the appellate proceedings, the CIT(A) enhanced the disallowance to Rs.191,40,05,877/- by holding that the technical write – off of Rs.103,67,40,537/- is not allowable as the same was not debited to the Profit & Loss account and the non – rural write off should be adjusted against the provision account under Section 36(1)(viia).

10.2 The Ld. Counsel for the assessee, at the outset submitted that this issue has been covered in favour of the assessee by the decision of the co-ordinate Bench in the assessee's own case for the AY 2014-15 (supra). He further submitted that the Bangalore Benches, in the case of Karnataka Bank Ltd vs. DCIT in ITA No.1907/Bang/2018, wherein the issue has been dealt in detail in light of provisions of section 36(1)(vii) of the Act and explanation provided thereunder and also provisions of section 36(1)(viia) r.w.s. 36(2)(v) of the Act. The Tribunal had also discussed the issue in light of explanation (2) inserted by Finance Act, 2013 w.e.f. 01.04.2014 in light of decision of Hon'ble Supreme Court in the case of Catholic Syrian Bank vs CIT [2012] 343 ITR 270, and held that for the purpose of deduction towards write off of non-rural debts u/s.36(1)(vii) of the Act, there is no need to adjust credit in the account of provision for bad and doubtful debts created in terms of

section 36(1)(vii) of the Act. The Ld. Counsel for the assessee, has argued the issue at length in light of the decision of Karnataka Bank Ltd vs DCIT (Supra) and held that, even after insertion of Explanation (2) to section 36(1)(vii) of the Act, the ratio laid down by the Hon'ble Supreme Court in the above case is not nullified, in so far as, deduction in respect of bad debts written off by non rural branches. He, further submitted that, clause (a) of section 36(1)(vii) of the Act is a beneficial provision provided to banks operating in rural areas and extending credit facilities and thus, when the bank is claiming deduction towards provision for bad and doubtful debts, on the basis of provisions credited, then if you adjust write off of non-rural debts against provision account, then the benefit given to rural banks is taken away. In other words, when it comes to deduction towards write off of bad debts deductible u/s. 36(1)(vii) of the Act, the advances given by rural branches alone needs to be considered, without any adjustment towards provisions credited for non-rural advance and actual write off of non-rural advances. This issue is also covered by the decision of Hon'ble Delhi High Court in the case of Oriental Bank of Commerce vs.PCIT in ITA No.521/2023, where the Hon'ble High Court has considered provisions of section 36(1)(vii) of the Act and explanation provided thereto and held that there is no substantial question of law raised from the decision of

the Tribunal. From the above, it is very clear that the findings of the ITAT in respect of deduction towards provision for bad and doubtful debts u/s.36(1)(viia) and write off of bad debts u/s.36(1)(vii) of the Act, pertains to rural advances should be considered separately without any adjustment in respect of write off of bad debts pertains to non rural debts. In respect of prudential write – off, he submitted that the same has been decided in favour of the assessee by various decisions including that of the decision of the Hon'ble Supreme Court in the case of Vijaya Bank reported in [2010] 323 ITR 166 (SC). Further he submitted that in the case of Karnataka Bank Limited (supra), the decision of the Ld. CIT(A) has been accepted by the department on the issue of prudential write – off. Therefore, he submitted that the Id. CIT(A) erred in not considering relevant facts while deciding the issue and thus, the disallowance sustained and the enhancement made by the Ld. CIT(A) towards disallowance of deduction claimed u/s. 36(1)(vii) of the Act should be deleted.

10.3 The Id. DR, on the other hand supporting the order of the Id. CIT(A) submitted that, after insertion of Explanation (2) to section 36(1)(vii) by Finance Act, 2013 w.e.f. 01.04.2014, there is no ambiguity in respect of deduction towards provision for bad and doubtful debts u/s.36(1)(viia) of the Act and deduction towards write off of actual bad debts u/s.36(1)(vii) r.w.s. 36(2)(v) of the

Act, because the Explanation has been inserted to remove doubts in light of certain judicial precedents including the decision of Hon'ble Supreme Court in the case of Catholic Syrian Bank vs CIT (Supra), and thus, the arguments of the Ld. Counsel for the assessee that, even after insertion of Explanation (2), provision for bad and doubtful debts and write off of bad debts in respect of rural advances should be separately considered without any adjustment in respect of write off of non-rural debts. In this regard, he has filed a detailed submission which has been reproduced as under:

"Bad debts written off claimed u/s. 36(1)(vii)

The assessee has claimed deduction of bad debts written off to the extent of Rs. 264.88 crores as irrecoverable u/s.36(1)(vii) of the Income Tax Act in its Computation of Income in respect of AY 2017-18.

However, the same was not claimed as expenditure in the audited financial accounts prepared and published by the assessee.

While computing the income referred in section 28 of the Income Tax Act, bad debts written off is an allowable deduction u/s.36. In order to claim the said deduction, the assessee has to prepare their accounts in accordance with law by charging those expenditures into the P&L a/c and net profit has to be arrived accordingly. The section 36(1)(vii) of the Income Tax Act reads as under:

"subject to the provisions of sub-section (2), the amount of any bad debt or part there of which is written off as irrecoverable in the accounts of the assessee, for the previous year."

Proviso-1: as per this proviso,

"in case of an assessee to which clause (vii) applies, the amount of the deduction relating to any such debt or part there of shall be limited to the amount by which such debt or part there of exceeds the credit balance in the provision for bad and doubtful debts accounts made under that clause. "

It is further explained in Explanation-2:

"For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub-section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viiia) and such account shall relate to all types of advances, including advances made by rural branches; "

The assessee bank can claim bad debts written off as irrecoverable u/s.36(1)(vii), subject to the provision of sub section (2) of section 36 of the Income Tax Act.

Provided, assessee being a scheduled bank, where they already claimed deduction of 'provision for bad and doubtful debt' under clause (a) of section 36(1)(viiia), to claim bad debt write off, the write off should exceed the credit balance in the "provision for bad and doubtful debt" made. Sub clause (v) of section 36(2) categorically prescribes that no such deduction (bad debt write off) shall be allowed to the assessee falling under 36(1)(viiia), unless the assessee has debited the amount of such debt or part of debt in the previous year to the provision for bad and doubtful debts a/c made under 36(1)(viiia).

In the instant case, the assessee has written off bad debts in the computation of income without routing it through the accounts as prescribed by law. It has not debited the bad debts written off in the books of account nor has it debited in the provision for bad and doubtful debts as mandated by law. In this connection, the following is submitted for kind consideration:

1. The assessee has debited provision for bad and doubtful debts ("PBDD") in the books of account. This is charged as expense in the profit and loss account. The profit and loss account from the annual accounts can be perused. The said provision for bad and doubtful debts is debited under the head "provisions and contingencies". The amount of PBDD debited to P & L a/c for the AY 2017-18 is Rs. 417.30 crores.

The amount of PBDD made by the assessee is in respect of all the advances irrespective of whether the advances relate to rural or non-rural branches. This implies that the assessee has been creating PBDD for all advances irrespective of whether they are rural or non-rural branches. That is, the assessee has been maintaining only one account under the head PBDD as mentioned in explanation 2 to section 36(1)(vii) and the same is debited to the profit and loss account. The said PBDD, subject to the limits mentioned in section 36(1)(viiia), has been allowed to the assessee.

The amounts of PBDD debited to Profit & Loss a/c and the amount claimed u/s.36(1)(viiia) is shown in table below:

Amount debited into P&L account	Amount claimed u/s.36(1)(viiia)
417.30	225.89

2. The assessee has also claimed deduction in respect of bad debts written off as irrecoverable u/s 36(1)(vii)

2.1 For claiming bad debt write off as irrecoverable, the assessee has to debit that bad debt in to the P&L a/c by crediting the corresponding debtor account in the Balance Sheet. This is what prescribed in section 36(1)(vii) of the IT Act. Law is settled on this aspect. The accounting treatment for bad debt write off is:

Debit	bad debt	P&L a/c
Credit	Corresponding Debtor a/c in	Balance Sheet

2.2 As stated earlier, in the Computation of Income submitted by the assessee for AY 2017-18, the assessee has claimed bad debts written off of Rs. 264.88 crores.

2.3 The appellant has claimed both provision for bad and doubtful debts u/s.36(1)(viiia) and bad debt write off as irrecoverable w/s 36(1)(vii) of the Income Tax Act as deduction while computing the total income.

2.4 However, the claim of bad debts written off is not allowable to the assessee as it has not debited the write off of bad debts to the profit and loss account and correspondingly closed the debtor account. Further the assessee has to satisfy the conditions mentioned in section 36(2)(v): Sub clause (v) of section 36(2) categorically prescribes that no such deduction (bad debt write off) u/s 36(1)(vii) shall be allowed to the assessee falling under 36(1)(viiia), unless the assessee has debited the amount of such debt or part of debt in the previous year to the provision for bad and doubtful debts a/c made under 36(1)(viiia).

2.5 As per RBI guidelines-prudential norms, assessee has to make a provision for bad and doubtful debt or provision for NPA on each NPA. It is classified as provision for bad and doubtful assets, category-I or category-2, provision for loss asset etc. Such provision is depending upon the performance of NPA and the securities against each such NPA. "Loss asset" is a category of provision for NPA where 100% provision was made in the books of accounts. It is to be mentioned here that it has already passed through doubtful category-1, doubtful category-2 etc. This is also to be debited as provision for NPA only into the P&L account. If any recovery is made out of this NPA, it has to be duly offered as income u/s 41(1).

2.6 It is clear from the accounts furnished by the assessee that no bad debts have been written off in the books of account of the assessee. As the bad debts were not written off in the books, it is not

eligible to claim deduction u/s.36(1)(vii). Further the bad debts written off were not debited to the PBDD thus not fulfilling the condition prescribed u/s 36(2)(v).

2.7 The assessee has been claiming that the debts written off are urban debts and can be claimed separately u/s 36(1)(vii) and not subject to provisions of section 36(1)(viia) which governs only bad debts of rural advances. Such a claim is not acceptable in view of the newly inserted explanation 2 to section 36(1)(vii) w.e.f. AY 2014-15. The explanation makes it very clear that the provision u/s.36(1)(viia) is for bad and doubtful advances related to both urban and rural advances.

Further, the explanatory memorandum while introducing the explanation 2 makes it very clear that provision u/s.36(1)(viia) is for bad and doubtful debts is related to both urban and rural advances.

The Memorandum to the Finance Act, 2013 is reproduced below:

"It has also been interpreted that there are separate accounts in respect of provision for bad and doubtful debt under clause (viia) for rural advances and urban advances and if the actual write off of debt relates to urban advances, then, it should not be set off against provision for bad and doubtful debts made for rural advances. There is no such distinction made in clause (viia), of section 36(1). In order to clarify the scope and applicability of provision of clause (vii), (viia) of sub-section (1) and sub-section (2), it is proposed to insert an Explanation in clause (vii) of section 36(1) stating that for the purposes of the proviso to section 36(1)(vii) and section 36(2)(v), only one account as referred to therein is made in respect of provision for bad and doubtful debts under section 36(1)(viia) and such account relates to all types of advances, including advances made by rural branches. Therefore, for an assessee to which clause (viia) of section 36(1) applies, the amount of deduction in respect of the bad debts actually written off under section 36(1)(vii) shall be limited to the amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts account made under section 36(1)(viia) without any distinction between rural advances and other advances".

Hence, it is clear that the explanation applies to a bank as a whole and not for any specific type of advances.

The assessee claims that section 36(1)(viia) is applicable only to rural bad debts write off and not for urban bad debts write off which can be claimed u/s 36(1)(vii). The section 36(1)(viia) was inserted by Finance Act 1979 w.e.f. 01.04.1980. The section starts as "in respect of any provision for bad and doubtful debts made by". It includes NPAs irrespective of whether the advances related to rural or non-rural. W.e.f. 1-4-1989, section 36(1)(vii) also undergone substantial change. It is clearly explained in circular 464 of 1986.

Explanation 1 to section 36(1)(vii) introduced in Finance Act 2001 w.r.e.f 1.4.1989 to plug the tax payers from claiming both provisions for bad debts as well as bad debt write off as an allowable deduction simultaneously of the same bad debt, reads as under:

"Explanation 1. —For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee,"

The provision of section 36(1)(vii) allows deduction of bad debt write off as irrecoverable in the accounts of the assessee. Section 36(1)(viiia) allows deduction of any provision for bad and doubtful debt made by assessee. Some of the judicial pronouncements gave findings that section 36(1)(viiia) allows deduction of bad debt of rural branch NPA and section 36(1)(vii) of the Income Tax Act allows deduction of bad debts of non-rural NPA of the respective bank. To clear the doubts, as explained earlier, Explanation 2 was brought into the statute in Finance Act, 2013.

The claim of the assessee is not legally valid in view of the newly inserted explanation and hence is not to be accepted. From the accounts, it is seen that it has created only one account for PBDD which covers all types of advances and has published the same in the annual accounts. The provision created is for both rural and urban advances. Now, to make an artificial distinction is not valid.

Hence, as the assessee has failed to debit the bad debts written off in the accounts i.e either to PBDD nor charged it to profit and loss account, its claim has no merit.

In this connection, the following cases are relied upon:

a) Vijaya Bank vs CIT 323 ITR 166

"After the insertion of the Explanation, the assessee(s) is now required not only to debit the profit and loss account but simultaneously, also to reduce loans and advances or the debtors from the assets side of the balance sheet to the extent of the corresponding amount so that at the end of the year the amount of loans and advances/debtors is shown as net of provisions for impugned bad debt. "

At this juncture, reference is drawn to the decisions relied on by the assessee in the case of PCIT v Oriental Bank of Commerce (Delhi High Court) in ITA 521/2023 wherein the Hon'ble Delhi High Court confirmed the order of the Hon'ble Delhi Tribunal dated 04.03.2022 in Oriental Bank of Commerce v AdCIT in ITA No. 1199/Del/2018.

It is pertinent to note that the decisions of the Hon'ble Delhi Tribunal and Delhi High Court rely on the decision of the Hon'ble Supreme

Court in Vijaya Bank (supra) which stated that there must be PBDD debit to the P&L along with reduction of Loans & Advances. The relevant portion of the decision in Vijaya Bank (supra) has been reproduced above.

In the facts of the case of Oriental Bank of Commerce, the assessee had reduced the PBDD from Loans & Advances as recorded in the order of the Hon'ble Delhi Tribunal. Hence, the Hon'ble Courts relied on Vijaya Bank (supra) and decided the matter in favour of the assessee.

However, in the instant cases, the assessee has not reduced the PBDD from the Advances in the Balance Sheet (reference is drawn to Schedule 9 - Advances of the Balance Sheet of the assessee for the impugned assessment year. Relevant pages of the financials have been enclosed).

Hence, the decisions in the case of Oriental Bank of Commerce (supra) are not applicable in the facts of the instant case and cannot be relied on by the assessee.

b) DCIT vs ING Vysya Bank [2014] 42 taxmann.com 303 (Bang-Trib)

"...what has to be seen by the AO is as to whether provision for bad doubtful debts is created irrespective of whether it is in respect of rural or non-rural advances by debiting into P&L account."

c) State Bank of Hyderabad vs DCIT [2015] 63 taxmann.com 322 (Hyd-Trib.)

On careful analysis of section under section 36(1)(viiia) it is very much clear that assessee being a scheduled bank can claim deduction in respect of provision for bad and doubtful debts made in its books of account, which does not exceed the aggregate of amount not exceeding 7.5 per cent of the total income computed before making any deduction under section 36(1)(viiia) and Chapter-VIA and an amount not exceeding 10 per cent of the aggregate average advances made by rural branches of such bank computed in terms with the prescribed rules. Thus, on reading of the aforesaid provision, it is very much clear that for claiming deduction under the said provision, assessee has to fulfil two conditions, firstly, it must have made a provision for bad and doubtful debts in its books of account and secondly the maximum deduction allowable is to the extent of 7.5 per cent of the total income and 10 per cent of the aggregate average advances made by rural branches of such bank. On a reading of the provisions of section 36(1)(viiia), as it stands now, it is very much clear that there is no restriction imposed under the said provision to indicate that assessee cannot make a provision for non-rural/urban advances. That being the case, department's argument that deduction under section 36(1)(viiia) has to be restricted only to

the extent of provision for bad and doubtful debts relating to rural advances, is not acceptable. [Para 39]

It is well settled that actual provision made by assessee on account of provision for bad and doubtful debt irrespective of the fact whether it is rural or non-rural, has to be seen while examining assessee's claim of deduction under section 36(1)(vii). If the bank does not have rural branch, it will not get deduction relating to 10 per cent of aggregate average advances made by rural branches. However, it will be eligible to claim deduction of 7.5 per cent of total income. Bifurcating the provision for bad and doubtful debt as one relating to rural advances and other advances (non-rural) does not arise for consideration. Thus, reasoning of the Assessing Officer in confining the deduction claimed under section 36(1)(vii) only to the provision made towards rural advances, is not in accordance with the statutory provision. On the other hand, the view expressed by Commissioner (Appeals) while allowing assessee's claim of deduction is as per the statutory provision. Accordingly, there is no infirmity in the order of Commissioner (Appeals) in allowing assessee's claim of deduction for Rs. 616.55 crores u/s 36(1)(vii). [Para 3]

Alternate claim regarding taxability u/s.41(4)

Now, whether the alternative claim that if the bad debt write off is disallowed by the AO, recovery of the bad debt write off u/s.41(4) of the Income Tax Act was also not to be charged was right? It is an incorrect claim. Prima facie, for the assessee, section 36(1)(vii) and section 41(4) is not be applicable as they have not written off any bad debt as irrecoverable in their accounts (Profit & Loss accounts). Only they created provision for bad and doubtful debts and claimed as a deduction as per section 36(1)(vii) of the IT Act to the extent they are entitled.

> Whenever the appellant created the provision for NPA/provision for bad and doubtful debt, it is allowed as a deduction u/s 36(1)(vii).

> If they provide 100% provision over the period years on those NPA, it will be classified as loss asset.

> If such NPA started performing, they have to offer the same as income in the P&L account as provision no longer required

> It has to be charged u/s 41(1) of the IT Act as reversal of provision.

This principle has been established in the case of Pragathi Grameena Bank Ltd vs CIT [2018] 91 taxmann.com 343 (Kar) which has been affirmed by the Hon'ble Supreme Court.

Prudential write off / technical write off

These are prudential norms prescribed as per RBI norms. When they create 100% provision of any that NPA, it will be classified as loss asset. The technical write off or prudential write off or head office write off takes place in head office. However, in books of respective branch account it remains as advance recoverable. It cannot be written off as irrecoverable. These write off are not all bad debt write off as irrecoverable as contemplated in section 36(1)(vii) of the Income Tax Act. The Hon'ble Supreme Court explained the differences between these two in Southern Technologies vs JCIT [2010] in 320 TR 577. This is also once again reiterated in the latest decision by the Apex Court in the case of PCIT vs Khyati Realtors (P.) Ltd [2022] 141 taxmann.com 461.

In the case of PCIT v. Khyati Realtors (P.)Ltd (supra), the Hon'ble Supreme Court gave the analysis and conclusion from paragraph 11 to 13. At paragraph 13, the Apex Court explained the scope of section 36(1)(vii) after 1.4.1989. It has also analysed various other decisions of the Supreme Court on the subject of bad debt write off, contemplated u/s 36(1)(vii) and gave its salient finding in point no.17 as under:

"17. It is evident from the above rulings of this court, that:

- (i) The amount of any bad debt or part thereof has to be written-off as irrecoverable in the accounts of the assessee for the previous year;*
- (ii) Such bad debt or part of it written-off as irrecoverable in the accounts of the assessee cannot include any provision for bad and doubtful debts made in the accounts of the assessee;*
- (iii) No deduction is allowable unless the debt or part of it "has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year", or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;*
- (iv) The assessee is obliged to prove to the AO that the case satisfies the ingredients of Section 36(1)(vii) as well as section 36(2) of the Act."*

Summary:

- It is submitted that mere provision for NPA cannot be considered as write off u/s.36(1)(vii) as held by Supreme Court in the case of Southern Technologies vs ACIT 352 ITR 577. Reliance is also placed on the decision rendered by Hon'ble Kerala High Court in the case of CIT vs Hotel Ambassador [2002] 253 ITR 430, wherein it was held*

that the deduction u/s.36(1)(vii) of the Act is allowable only if the assessee debits the same into the accounts as irrecoverable.

- Exactly, on similar facts and grounds, the Hon'ble Supreme Court has admitted the SLP in the case of Commissioner of Income-tax, LTU vs Vijaya Bank [2021] in 130 taxmann.com 149.

- Reliance is further placed on the decision of the Hon'ble Supreme Court in Vijaya Bank vs CIT 323 ITR 166, wherein it was held that the assessee is now required not only to debit the profit and loss account but simultaneously, also to reduce loans and advances or the debtors from the assets side of the balance sheet to the extent of the corresponding amount so that at the end of the year the amount of loans and advances/debtors is shown as net of provisions for impugned bad debt.

- Finally, it is well settled that actual provision made by assessee on account of provision for bad and doubtful debt irrespective of the fact whether it is rural or non-rural, has to be seen while examining assessee's claim of deduction under section 36(1)(vii). If the bank does not have rural branch, it will not get deduction relating to 10 per cent of aggregate average advances made by rural branches. However, it will be eligible to claim deduction of 7.5 per cent of total income. Bifurcating the provision for bad and doubtful debt as one relating to rural advances and other advances (non-rural) does not arise for consideration.

- Assessee is a scheduled bank falling under clause (a) of section 36(1)(vii) of the Income Tax Act. They are entitled for any provision for bad and doubtful debt made by them in the books of accounts, not exceeding the limits prescribed therein which has already been claimed. No other bad debt was actually written off as irrecoverable as per section 36(1)(vii) of the Income Tax Act in the annual accounts published. Hence, the claim of bad debt write off in the computation of income is not true and correct.

Prayer:

In light of the detailed submissions enumerated above and the judicial decisions relied on, it is prayed that the grounds raised by the assessee bank against the disallowances u/s. 36(1)(vii) may be rejected."

10.4 In their rebuttals, the ARs for the Assessee Bank submitted that the Technical Write off has to be considered as write off of bad debts as it fulfills the criteria for writing off of bad debts. By inviting

our attention to the reconciliation statement of Net Advances as at 31/03/2017, it was submitted that the Advances as shown in the Balance Sheet (Schedule 9) is arrived at after reducing the Technical Write off and provisions. It was therefore, submitted that the issue is squarely covered by the decision of the Hon'ble Supreme Court in the case of Vijaya Bank (supra) and that of the Hon'ble Delhi High Court in the case of Oriental Bank of Commerce (supra). Reliance was also placed on the decision of the co-ordinate Bench of the Tribunal in the case of Indian Bank in ITA Nos. 738, 739 & 2155/Chny/2017, ITA Nos. 650, 648, 2149 / Chny/2017. Further it was submitted that the decision of the Hon'ble Supreme Court in the case of Khyati Realtors (supra) is not applicable to the facts of this case since it was a case of writing of advance by a real estate company and the facts are completely different. Further, even the decision of the Apex Court in the case of Southern Technologies (supra) is not applicable since the same was considered in the case of Vijaya Bank for allowing the deduction to the assessee. It was finally submitted that after considering the detailed submissions of the DR the co-ordinate Bench of the Tribunal in the Appellant's own case in ITA No.677/Cnhy/2019 (supra) decided the issue in favour of the Assessee Bank.

10.5 We have heard both the parties, perused material available on record and gone through orders of the authorities below. We notice that the co-ordinate Bench of the Tribunal in the Appellant Bank's own case in ITA No. 677/Chny/2019 (supra) decided the issue in favour of the Appellant Bank. In para 9.3, the Tribunal held as follows:

"9.3 We have heard both the parties, perused material available on record and gone through orders of the authorities below. This issue has been decided in favour of the bank by this Tribunal in the case of M/s.City Union Bank Ltd (supra). The Tribunal held as follows:

"We have also carefully considered the decision of Hon'ble Supreme Court in the case of Catholic Syrian Bank vs CIT (Supra) and subsequent Explanation (2) inserted by Finance Act, 2013 w.e.f. 01.04.2014, in light of the decision of Hon'ble ITAT Bangalore Bench in the case of Karnataka Bank vs DCIT (Supra) in ITA No. 1907/Bang/2018. The controversy with regard to claim for deduction towards provision for bad and doubtful debts in terms of section 36(1)(vii) of the Act and deduction towards actual write off of bad debts u/s. 36(1)(vii) r.w.s. 36(2)(v) of the Act, has to be understood in the context of rural advance and non-rural advance given by the banks.

10.4 The provisions of section 36(1)(vii) deals with deduction toward bad debts or part thereof which is written off as irrecoverable in the accounts of the assessee subject to the provision of sub-section (2) to section 36 of the Act. As per said provision in the case of assessee, to which clause (vii) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause. Sub-section (2) to section 36 prescribed conditions for making any deduction for bad debts or part thereof and as per subsection (v) to section 36(2), where debts or part thereof relates to advances made by an assessee to which clause (vii) of sub-section (1) applies, no such deduction shall be allowed unless the assessee had debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause. A combined reading of sections 36(1)(vii) r.w.s. 36(2)(v) of the Act, it is abundantly clear that in order to get deduction u/s. 36(1)(vii) of the Act towards write off of irrecoverable bad debts, the assessee should first make a provision in terms of section 36(1)(vii) of the Act and

deduction towards write off of actual bad debts should be in excess of credit balance in the provision for bad and doubtful debts account. There are litigations on this issue. The Hon'ble Supreme Court has dealt with this issue in the case of Catholic Syrian Bank vs CIT (Supra) and observed that, sub-clause (a) to section 36(1)(vii) of the Act applies only to rural advances. Taking a clue from the decision of Hon'ble Supreme Court in the case of Catholic Syrian Bank vs CIT (Supra), the ITAT Bangalore Bench in the case of Karnataka Bank Ltd vs DCIT (supra), has dealt the issue at length in light of provisions of section 36(1)(vii) r.w.s. 36(2)(v) of the Act and also provisions of section 36(1)(viia) of the Act, and held that write off of non-rural bad debts should be considered only against provision for bad and doubtful debts in respect of non-rural advances as per section 36(1)(viia) of the Act. In other words, the credit balance in provision for bad and doubtful debts in respect of rural advance only needs to be adjusted against write off of rural bad debts in terms of section 36(1)(viia) of the Act, without considering write off of nonrural debts. The relevant findings of the Tribunal are as under:

"7.7 We heard the Ld D.R and perused the record. Now the core question that arises is whether the bad debts relating to non-rural branches are also required to be first debited to PBDD a/c and then the excess amount over and above the balance available in PBDD alone could be allowed as bad debts u/s. 36(1)(vii) of the Act.

7.8 The provisions of sec. 36(1)(vii) allows deduction as under:-

"36(1)(vii) Subject to the provisions of subsection (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year.

Provided that in the case of an assessee to which clause (viia) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account under that clause.

.....

Explanation 2 – For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viia) and such account shall relate to all types of advances, including advances made by rural branches;"

The provisions of sec. 36(2)(v) are relevant here and it reads as under:-

"(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply--

--

.....

(v) where such debt or part of debt relates to advances made by an assessee to which clause (viia) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the 'provision for bad and doubtful debts' account made under that clause."

A combined reading of provisions of clause (vii) of sec.36(1), the proviso there under and clause (v) of sec.36(2) would show that

(a) the bank should debit the actual bad debts written off by it to "PBDD a/c" (sec. 36(2)(v))

(b) the deduction u/s. 36(2)(vii) shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the PBDD made under clause (viia) of sec.36(1).

7.9 The contention of the revenue is that the Explanation 2 has expanded the scope of the proviso to sec. 36(1)(vii) and hence the bad debts relating to nonrural branches are also required to be first debited to PBDD a/c and the excess amount alone can be allowed as deduction u/s. 36(1)(vii) of the Act. According to revenue, the decision rendered by Hon'ble Supreme Court in the case of Catholic Syrian Bank (2012)(343 ITR 270). In the above said case, the Hon'ble Supreme Court has expressed the view that the provisions of sec. 36(1)(vii) and 36(1)(viia) allow separate deduction and they are independent provisions. The Supreme Court further held that the clause (viia)(a) applies only to rural advances. So the bad debts relating to non-rural advances need not be deducted against the PBDD allowed under clause (a) of sec.36(1)(viia) of the Act. The Hon'ble Supreme Court, *inter alia*, also observed as under:-

"31 It was neither in dispute earlier nor is it disputed before us, that the assessee-bank is maintaining two separate accounts, one being a provision for bad and doubtful debts other than provision for bad debts in rural branches and another provision account for bad debts in rural branches for which separate accounts are maintained...."

Referring to the above said observations, the revenue has taken the view that the Hon'ble Supreme Court has rendered its decision on the assumption that the banks would be maintaining two separate PBDD a/c, viz., one for rural branches and another one for non-rural branches.

7.10 It is possible that all banks may not be maintaining two separate accounts, as observed by the Hon'ble Supreme Court. Hence there was an apprehension in the minds of revenue with regard to the effect of the decision rendered by Hon'ble Supreme Court. For instance, if a particular bank is maintaining only a single PBDD a/c for the provision created u/s. 36(1)(viia) of the Act and even if that bank is not having any rural branches, then it may try to avail the benefit of decision rendered by Hon'ble Supreme Court and may possibly contend that

(i) the provision allowed u/s. 36(1)(viia) shall apply only to Rural branches.

(ii) since it does not maintain two separate PBDD a/c for rural and non-rural advances, the bad debts relating nonrural branches need not be reduced from the PBDD a/c allowed u/s. 36(1)(viia) in terms of sec. 36(2)(v) and the proviso to sec. 36(1)(vii) of the Act.

However, the Ld A.R submitted before us that the Explanation 2 has been inserted in sec. 36(1)(vii) by Finance Act, 2013 (after the decision of Catholic Syrian Bank) to debar certain assesseees to avail the interpretation given by Hon'ble Supreme Court in the case of Catholic Syrian Bank (supra).

7.11 We have considered the arguments advanced by Ld A.R on this point. According to Ld A.R, if we closely analyse the provisions of sec. 36(1)(viia) of the Act, the intention of the Parliament in inserting Explanation -2 shall become clear. Accordingly, we analysed the provisions of sec.36(1)(viia) and notice that the said section allows deduction of PBDD to various types of assesseees, viz.,

(i) Clause (a) of sec. 36(1)(viia) shall be applicable to a Scheduled bank (not being a bank incorporated by or under the laws of a country outside India) or non-scheduled bank or a cooperative bank other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank. The quantum of deduction is 7.50% of Total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding 10% of aggregate average advances made by the rural branches of such bank.

(ii) Clause (b) of sec. 36(1)(vii) shall be applicable to a bank incorporated by or under the laws of a country outside India. The quantum of deduction is 5% of the total income (computed before making any deduction under this clause and Chapter VIA).

(iii) Clause (c) is applicable to a public financial institution or a State financial corporation or a State industrial investment corporation. The quantum of deduction is 5% of total income (computed before making any deduction under this clause and Chapter VIA).

(iv) Clause (d) is applicable to Non-banking financial company from AY 2017-18.

The Hon'ble Supreme Court in the case of Catholic Syrian Bank (supra) has held that the PBDD allowed under clause (a) of Sec. 36(1)(vii) refers to 'rural advances' only. In fact the expression "rural branches" finds place in clause (a) only. It can be noticed that the reference to "rural branches" is not there in clause (b) to (d). Generally, the foreign banks may not have rural branches. However, such kind of banks, financial institutions, NBFC etc. are also eligible to claim deduction towards PBDD u/s. 36(1)(vii) of the Act under clauses (b) to (d). In view of the decision rendered in the case of Catholic Syrian bank, it is possible that the assessee covered by clause (b) to (d) may contend that the bad debts written off by them need not be adjusted against PBDD allowed u/s. 36(1)(vii) of the Act, since the bad debts relate to "non-rural debts". Accordingly, we are of the view that the Explanation 2 has been inserted in order to bring the assessee covered by clauses (b) to (d) within the ambit of the proviso to sec. 36(1)(vii) and sec. 36(2)(v) of the Act. Hence, in our view, advances given by rural and non-rural branches mentioned in Explanation 2 shall apply to the assessee covered by clause (b) to (d) of sec. 36(1)(vii) of the Act.

7.12 At this juncture, we may gainfully refer to the "MEMORANDUM EXPLAINING FINANCE BILL 2013", which brings out the intention of the Parliament in inserting Explanation-2 in sec. 36(1)(vii) of the Act. It is extracted below:-

"Clarification for amount to be eligible for deduction as bad debts in case of banks:-

Under the existing provisions of section 36(1)(vii) of the Income-tax Act, in computing the business income of certain banks and financial institutions, deduction is allowable in respect of any provision for bad and

doubtful debts made by such entities subject to certain limits specified therein. The limit specified under section 36(1)(viia)(a) of the Act restrict the claim of deduction for provision for bad and doubtful debts for certain banks (not incorporated outside India) and certain cooperative banks to 7.5% of gross total income (before deduction under this clause) of such banks and 10% of the aggregate average advance made by the rural branches of such banks. This limit is 5% of gross total income (before deduction under this clause) under sections 36(1)(viia)(b) and 36(1)(viia)(c) for a bank incorporated outside India and certain financial institutions.

Provisions of clause (vii) of section 36(1) of the Act provides for deduction for bad debt actually written off as irrecoverable in the books of account of the assessee. The proviso to this clause provides that for an assessee, to which section 36(1)(viia) of the Act applies, deduction under said clause (vii) shall be limited to the amount by which the bad debt written off exceeds the credit balance in the provision for bad and doubtful debts account made under section 36(1) (viia) of the Act. The provisions of section 36(1)(vii) of the Act are subject to the provisions of section 36(2) of the Act. The clause (v) of section 36(2) of the Act provides that the assessee, to which section 36(1)(viia) of the Act applies, should debit the amount of bad debt written off to the provision for bad and doubtful debts account made under section 36(1) (viia) of the Act. Therefore, the banks or financial institutions are entitled to claim deduction for bad debt actually written off under section 36(1)(vii) of the Act only to the extent it is in excess of the credit balance in the provision for bad and doubtful debts account made under section 36(1)(viia) of the Act.

However, certain judicial pronouncements have created doubts about the scope and applicability of proviso to section 36(1)(vii) and held that the proviso to section 36(1)(vii) applies only to provision made for bad and doubtful debts relating to rural advances. Section 36(1)(viia) of the Act contains three sub-clauses, i.e. sub-clause (a), subclause (b) and sub-clause (c) and only one of the subclauses i.e. sub-clause (a) refers to rural advances whereas other sub-clauses do not refer to the rural advances. In fact, foreign banks generally do not have rural branches. Therefore, the provision for bad and doubtful debts account made under clause (viia) of section 36(1) and referred to in proviso to clause (vii) of section 36(1) and section 36(2)(v)

applies to all types of advances, whether rural or other advances. It has also been interpreted that there are separate accounts in respect of provision for bad and doubtful debt under clause (viiia) for rural advances and urban advances and if the actual write off of debt relates to urban advances, then, it should not be set off against provision for bad and doubtful debts made for rural advances. There is no such distinction made in clause (viiia) of section 36(1). In order to clarify the scope and applicability of provision of clause (vii), (viiia) of sub-section (1) and subsection (2), it is proposed to insert an Explanation in clause (vii) of section 36(1) stating that for the purposes of the proviso to section 36(1)(vii) and section 36(2)(v), only one account as referred to therein is made in respect of provision for bad and doubtful debts under section 36(1)(viiia) and such account relates to all types of advances, including advances made by rural branches. Therefore, for an assessee to which clause (viiia) of section 36(1) applies, the amount of deduction in respect of the bad debts actually written off under section 36(1)(vii) shall be limited to the amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts account made under section 36(1)(viiia) without any distinction between rural advances and other advances. This amendment will take effect from 1st April, 2014 and will, accordingly, apply in relation to the assessment year 2014-15 and subsequent assessment years.

The CBDT has issued an Explanatory note to the Provisions of Finance Act, 2013 on 24.01.2014 in F No. 142/24/2013 – TPC, wherein also the very same explanations have been given for introducing Explanation – 2 in Sec. 36(1)(vii) of the Act. The above said Memorandum and the Explanatory Note issued by the Government/CBDT supports our view.

7.13 Our view is further fortified by certain observations made by Hon'ble Supreme Court in the case of Catholic Syrian Bank (supra). We may refer to paragraph 27 of the decision now:-

"27. As per this proviso to clause (vii), the deduction on account of the actual write off of bad debts would be limited to the excess of the amount written off over the amount of the provision which had already been allowed under clause (viiia). The proviso by and large protects the interests of the Revenue. In case of rural advances which are covered by clause (viiia), there would be no such double deduction. The proviso, in its terms, limits its application to the case of a bank to

which clause (viia) applies. Indisputably, clause (viia)(a) applies only to rural advances."

It is pertinent to note that the Hon'ble Supreme Court has categorically held that clause (a) of sec. 36(1)(viia) applies to rural advances only. If the Parliament wanted to undo the above said interpretation given by the Hon'ble Supreme Court, it should have brought amendment in clause (a) to sec. 36(1)(viia) to make its intention clear that the clause (a) shall apply to both rural and non-rural advances. Since there is no such amendment, the interpretation given by Hon'ble Supreme Court that "clause (viia)(a) applies to rural advances only" shall remain intact.

Explanation 2 inserted in sec. 36(1)(vii), in our view, does not override the above said interpretation given by Hon'ble Supreme Court.

7.14 In the Memorandum explaining the purpose of introducing Explanation -2 in Sec. 36(1)(vii), it has been acknowledged that only the clause (a) refers to "rural branches". It has also been stated that the foreign banks do not have rural branches. The assesses covered by clause (b) to (d) may not be having rural branches. Hence, the memorandum explains as under with regard to the decision rendered by Hon'ble Supreme Court in the case of Catholic Syrian Bank (supra):-

"However, certain judicial pronouncements have created doubts about the scope and applicability of proviso to section 36(1)(vii) and held that the proviso to section 36(1)(vii) applies only to provision made for bad and doubtful debts relating to rural advances."

Because of the interpretation so given by Hon'ble Supreme Court, as discussed earlier, there arose a necessity for the Parliament to clarify that the PBDD allowed u/s. 36(1)(viia) shall apply to all types of advances including advances made by rural branches. However, as stated earlier, the clause (a) to sec.36(1)(viia) has been held to be applicable to rural advances only and this interpretation has not been overridden by any amendment.

7.15 As noticed earlier, the assesseees covered by clauses (b) to (d) may not be having rural branches, but they would be getting the benefit of deduction of PBDD u/s. 36(1)(viia) of the Act. Hence, in order to bring those assesseees within the ambit of the proviso to sec. 36(1)(vii) and sec. 36(2)(v), it was imperative for the Parliament to clarify the legal position and accordingly Explanation-2 has been inserted in sec.

36(1)(vii) of the Act. Accordingly, on the analysis of the provisions discussed above, we are of the view that the above said Explanation-2 shall operate

(a) in respect of clause (a) of sec. 36(1)(viiia) of the Act only to rural advances and

(b) in respect of clauses (b) to (d), for advances given by both rural and non-rural branches.

7.16 In the instant case, the assessee has claimed deduction towards PBDD under clause (a) to sec. 36(1)(viiia) of the Act, meaning thereby, the clause (a) is applicable to rural advances only as per the decision given by Hon'ble Supreme Court in the case of Catholic Syrian Bank. Hence the bad debts relating to non-rural branches are not required to be adjusted against PBDD allowed under clause (a) of sec. 36(1)(viiia) of the Act in terms of the proviso to sec. 36(1)(vii) and sec. 36(2)(v) of the Act.

7.17 In view of the foregoing discussions, we are unable to agree with the view expressed by Ld. CIT(A) on this issue. Accordingly, we set aside the order passed by Ld. CIT(A) on this issue and direct the AO to allow the bad debts relating to nonrural branches u/s. 36(1)(vii) of the Act without adjusting the same against the PBDD a/c, since the said PBDD a/c relates to rural advances only”.

10.5 In this view of the matter and by respectfully following the decision of coordinate bench of ITAT Bangalore in the case of Karnataka Bank vs DCIT (Supra), which has been further strengthened by the decision of Hon'ble Delhi High Court in the case of Oriental Bank of Commerce vs PCIT (supra), we are of the considered view that, the bad debts written off relating to non-rural advances is not required to be adjusted against provision for bad and doubtful debts allowed u/s. 36(1)(viiia) of the Act and thus, we direct the Assessing Officer to re-compute deduction in respect of write off of non:- rural debts without any adjustment to credit balance in the provision for bad and doubtful debts account in respect of rural advance.”

9.4 Since the facts of both the cases are same, respectfully following the above decision of the co-ordinate bench in the case of City Union Bank Ltd, we hold that the bad debts written off relating to non-rural advances is not required to be adjusted against provision for bad and doubtful debts made u/s. 36(1)(viiia) of the Act and quash the enhancement made by the CIT(A) allowing the ground of assessee's appeal by directing the AO to delete the addition. Since we have decided this issue on merits, the issue on technical ground is left open.”

10.6 As the facts are same for this year also, respectfully following the above decision of the co-ordinate Bench in the Appellant Bank's own case, we hold that the bad debts written off (including technical write off) relating to non rural advances is not required to be adjusted against the provision for bad and doubtful debts made under clause 36(1)(vii)(a) of the Act and delete the disallowances made by the lower authorities. Further we find that the co-ordinate Bench in the case of Indian Bank (supra) held that technical write off is allowable u/s.36(1)(vii). As the facts of this case is same as that of Indian Bank case, we hold that the technical write off of non rural debts is an allowable deduction u/s.36(1)(vii). This ground of the assessee is allowed.

11. The next issue that came up for our consideration from ground no 5 of assessee appeal is an alternate ground relating to taxability of recovery from written off accounts u/s 41(4).

11.1 It is an alternate ground to ground no. 4. Since we have allowed ground No. 4 in favour of the assessee, this ground is dismissed as infructuous.

12. The next issue that came up for our consideration from ground No. 6 of assessee appeal is deduction towards education cess and secondary and higher education cess.

12.1 The Ld. Counsel for the assessee, at the time of hearing submitted that the assessee does not want to press this ground and thus, ground No. 6 of assessee appeal is dismissed as not pressed.

12.2 In the result, appeal filed by the assessee for assessment year 2017-18 is partly allowed for statistical purposes.

ITA No: 635/CHNY/2020 for AY 2017-18:

13. The revenue has raised the following grounds of appeal which is reproduced as under:

1. *The order of the learned Commissioner of Income tax (Appeals), Trichy is contrary to the law, facts and circumstances of the case.*
2. *The CIT(A) erred in deleting the addition made u/s 14A of the Act r.w. Rule 8D of the Rules relying on the decision of Hon'ble Supreme Court in the case of Maxopp Investment Ltd 402 ITR 640 (SC).*
3. *The CIT(A) failed to appreciate that Hon'ble Supreme Court in the case of Maxopp Investment Ltd 402 ITR 640 (SC) agreed with applicability of section 14A of the Act based on theory of apportionment of expenditure between taxable and non-taxable income as held in the case of Walfort Share & Stock Brokers (P) Ltd, when shares are held as stock in trade.*
4. *The CIT(A) failed to appreciate the decision of ITAT, Chennai in the case of M/s City Union Bank Limited Vs ACIT dated 09/7/2019 rendered in ITA Nos. 1129 & 1130/CHNY/2018 and 1315 & 1316/CHNY/2018, wherein the ITAT 'C' Bench rejected the contention of the assessee that provisions of section 14A of the Act cannot be invoked, when the securities are held as stock-in-trade following the decision of Hon'ble Supreme Court in the case of Maxopp Investment Ltd vs Commissioner of Income tax [2018] 402 ITR 640 (SC).*
5. *The CIT(A) erred in deleting the addition made on account of stale draft & Cheque without appreciate the decision of ITAT, Chennai*

in the case of City Union bank vs JCIT reported in ITA Nos. 1671, 1801,1802, 1803,1804,2034 & 2035/Mds/2014 dated 28/12/2016 wherein the ITAT treated the unclaimed balance as the Revenue receipts irrespective of the fact that the bank is a custodian and allowed the ground of revenue relying on the judgment of Hon'ble Kerala High Court in the case of Catholic Syrian Bank Ltd Vs Assistant Commissioner of Income tax, 349 ITR 0569.

6. *The CIT(A) failed to appreciate the decision of Hon'ble High Court of Kerala in the case of South Indian Bank Ltd v CIT, Trichur reported in 279 CTR 179 (Kerala), where the Hon'ble High Court held that excess cash in branches of assessee-bank that was to be refunded only if any customer would claim, is to be added to income under section 41(1) of the Act.*
7. *The CIT(A) erred in allowing the deduction claimed by the assessee towards ex-gratia payment.*
8. *The CIT(A) failed to appreciate decision of the Hon'ble Madras High Court in the case of CIT vs Carborundum Universal Ltd (1977) 110 ITR 621 (Mad), wherein it was held that nature of payment was one as described in section 36(1)(iv) but said payment could not be deducted under section 36(1)(iv) because it was not a contribution to an approved superannuation fund, such payment could not be deducted under section 28 on general principle in arriving at profits and gains of business in a commercial sense.*
9. *The CIT(A) failed to appreciate decision of the Hon'ble Supreme Court in the case of southern Technologies Ltd 320 ITR 577 (SC) where held that the expenditure covered u/s 30 to 36 is not allowable u/s 37 of the Act.*
10. *The CIT(A) erred in allowing the claim of the assessee towards provision of bad and doubtful debts u/s 36(1)(vii) of the Act.*
11. *The CIT(A) failed to appreciate that the concept of considering the incremental Average rural advance was upheld by the Hon'ble ITAT 'A' Bench Chennai vide its order in ITA Nos. 1205, 1548,1620,1206,1207,1208,1209, 27,1621 & 1622/Mds/2014 dated 29/01/2016 in the case of M/s Lakshmi Vilas Bank Vs Assistant Commissioner of Income tax. Further, the Hon'ble ITAT 'D' Bench Chennai Vide its order in ITA Nos. 496 & 497/Mds/2014 dated 23/02/2016 in the case of M/s Indian Overseas Bank Vs. Deputy Commissioner of Income tax and Also Vide its order in ITA Nos. 1671, 1801,1802,1803 & 1804/Mds/2014 dated 28/12/2016 in the case of **M/s City Union Bank Limited vs. Joint.***

Commissioner of Income tax had upheld the method of considering only the incremental average rural advances instead of aggregate average advance by the rural branches.

12. The CIT(A) failed to appreciate the decision of Hon'ble Kerala High Court in the case of CIT v Lord Krishna Bank Ltd (2011) 339 ITR 606 (ker.) where in it was held that "place referred to, in definition of 'rural branch' under Explanation (ia) to section 36(1)(vii) for purpose of identifying branch of a bank as a rural branch with reference to its location is revenue village and not a ward of a local authority like Panchayat or Municipality. Therefore, rural branches are such branches which are located in a village where population in village is less than 10,000.
13. The CIT(A) erred in deleting the addition made towards income received in Advance without going into the merits of the issue.
14. The CIT(A) failed to observe that the ITAT 'B' Bench Chennai in the assessee's own case reported in ITA Nos. 1340 & 1341/Mds/2013 and 1496 & 1527 /Mds/2013 dated 27/04/2017 has confirmed the addition made on account of income received in advance.
15. The appellant craves to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of appeal.

14. The first issue that came up for our consideration from Ground No. 2 to 4 of the Revenue appeal is deletion of disallowance of expenditure relatable to exempt income u/s. 14A of the Act.

14.1 The assessee has earned dividend income of Rs.1,48,37,087/-, and the assessee had made suo moto disallowance of Rs.1,55,622/-. The AO invoked the provisions of Rule 8D and disallowed Rs.1,09,85,212/-. On appeal, the Ld. CIT(A) deleted the disallowance.

14.2 The Id. DR supporting the order of the AO submitted that the moment exempt income is earned, disallowance contemplated u/s.14A triggers and the AO shall compute such disallowance by invoking Rule 8D of IT Rules, 1962 and thus, there is no error in the reasons given by the AO towards disallowance u/s.14A and the order of the AO should be upheld.

14.3 The Id.AR for the assessee at the time of hearing submitted that this issue is covered in favour of the assessee by the decision of ITAT in assessee's own case for assessment year 2014-15 in ITA No.1343/CHNY/2019, where it has been held that no disallowance u/s.14A is permissible in terms of Rule 8D where the assessee is engaged in banking business.

14.4 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. An identical issue had been considered by the Tribunal in assessee's own case for assessment year 2014-15 in ITA No. 1343/Chny/2019, in which the Tribunal after considering relevant facts held that no disallowance u/s.14A is warranted. The relevant findings of the Tribunal are as under:

"18.3 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. An identical issue had been considered by the Tribunal in assessee's own case for assessment year 2013-14 in ITA No. 2765/Chny/2017,

where the Tribunal after considering relevant facts held that no disallowance u/s 14A is warranted. The relevant findings of the Tribunal are as under:

"12.3 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Admittedly, the issue is covered in favour of the assessee by the decision of ITAT in assessee's own case for assessment year 2012- 13, where under identical set of facts, the Tribunal by following certain judicial precedents including the decision of Hon'ble Punjab & Haryana High Court in the case of Pr.CIT vs. State Bank of Patiala, [2017] (2) TMI 125, held that no disallowance u/s. 14A is permissible in terms of Rule 8D, where the assessee is engaged in banking business. A similar view is taken by the Hon'ble Supreme Court in the case of South Indian Bank Ltd vs. CIT in Civil Appeal No. 9606 of 2011, and held that shares and securities held by a bank are stock-in-trade and income received on such shares and securities must be considered to be business income. That is why, Section 14A of the Act would not be attracted to such income.

12.4 In this view of matter and consistent with view taken by the Co-ordinate Bench and also by respectfully following the decision of Hon'ble Supreme Court in the case of South Indian Bank Ltd., vs. CIT, supra, we direct the AO to delete addition made towards disallowance u/s. 14A r.w.rule 8D of the IT Rules, 1962."

18.4 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue."

14.5 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue.

15. The second issue that came up for our consideration from Ground Nos. 5 to 6 of Revenue appeal is deletion of addition made towards disallowance of stale drafts.

15.1 The facts with regard to the impugned dispute are that the assessee is in the business of banking, has issued demand drafts to

various persons and further any unclaimed demand drafts was kept in stale draft account under the head 'outstanding liabilities'. During the course of assessment proceedings, the AO noticed that an amount of Rs. 30,27,690/- was shown under the head outstanding liabilities towards stale draft and treated the same as income of the assessee and added to total income. On appeal before the Id. CIT(A), the CIT(A) has deleted addition made by the AO by following the decision of ITAT in assessee's own case for earlier years.

15.2 The Id. DR submitted that the Id. CIT(A) has erred in deleting the disallowance made by the AO towards stale draft account without appreciating the fact that amount kept under stale draft account is nothing but income of the assessee and same need not to be paid to any person.

15.3 The Id.ARs for the assessee on the other hand strongly supporting order of the CIT(A) submitted that the issue is squarely covered in favour of the assessee by the decision of ITAT in assessee's own case for assessment year 2014-15 in ITA No. 1343/Chny/2019, where under identical circumstances the Tribunal has deleted addition made by the AO by holding that amount kept under stale draft account is not income of the assessee. He further

submitted that the Hon'ble High Court of Madras has considered an identical issue in case of City Union Bank Ltd., vs. CIT reported in [2020] 118 taxmann.com 96, where it has been clearly held that amount kept under stale draft account cannot be treated as income of the assessee.

15.4 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We find that the issue has been decided in the assessee's own case by the ITAT order (supra). The ITAT held as follows:

"16.3 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We find that the issue has been decided in assessee's own case by the ITAT order (supra). The ITAT held as follows:

The assessee is in the banking business, has received money while issuing demand drafts / pay order to various customers. The said money was held by the bank on behalf of the drawee till he/she made claim. The assessee bank had no right over the amount which is standing unclaimed. Further, the assessee banks had to remit the amount outstanding for more than 10 years to Depositors Education & Awareness Fund Scheme maintained by Reserve Bank of India. Further, as and when the drawee makes a claim, the assessee shall issue demand draft / pay order in case the amount lying with the assessee and further, if the amount is transferred to RBI account after 10 years, then the Reserve Bank settles the claim of the drawee. Therefore, under these facts and circumstances amount lying in stale draft account cannot be treated as income of the assessee. The ITAT after considering relevant facts has rightly held that amount lying in stale draft account under the head 'outstanding liabilities' cannot be treated as income of the assessee. A similar view has been taken by the Hon'ble Jurisdictional High Court of Madras in the case of City Union Bank Ltd., vs. CIT, supra. Therefore, consistent with view taken by the Co-ordinate

Bench, we are of the considered view that there is no error in the reasons given by the CIT(A) to delete addition made by the AO towards Stale Draft Account. Hence, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue."

16.4 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue."

15.5 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue.

16. The next issue that came up for our consideration from Ground Nos. 7 to 9 of Revenue appeal is deletion of disallowance of ex-gratia payment of Rs.29,59,64,696/-.

16.1 The AO had disallowed ex-gratia payment made by the assessee to its staff by observing that the Revenue has filed appeals before the Hon'ble High Court against the orders of the ITAT and in order to keep the issue alive, the claim made by the assessee was disallowed. On appeal, the Ld. CIT(A) following the earlier orders of the ITAT, allowed the appeal of the assessee.

16.2 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. An identical issue had been considered by the Tribunal in assessee's own case for assessment year 2014-15 in ITA No. 1343/Chny/2019, where the Tribunal after considering relevant facts held that

exgratia payment to staff is deductible u/s. 37(1) of the Act. The relevant findings of the Tribunal are as under:

"17.1 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. An identical issue had been considered by the Tribunal in assessee's own case for assessment year 2013-14 in ITA No. 2672/Chny/2017, where the Tribunal after considering relevant facts held that exgratia payment to staff is deductible u/s. 37(1) of the Act. The relevant findings of the Tribunal are as under:

"7.1 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. An identical issue had been considered by the Tribunal in assessee's own case for assessment year 2012-13 in ITA No. 3197/Chny/2017, where the Tribunal after considering relevant facts held that exgratia payment to staff is deductible u/s. 37(1) of the Act. The relevant findings of the Tribunal are as under:

16. The Ld. DR submitted that the Ld. CIT(A) erred in deleting the disallowance of ex-gratia payment following the decision of the CIT vs Maina Ore Transport Pvt. Ltd., 324 ITR 100 (Bom) and Kumaran Mills Ltd vs CIT (2000) 241 ITR 564 (Mad) which are distinguishable and not applicable to this case. Per contra, the Ld. AR supported the order of the Ld. CIT(A) and relied on this tribunal decision in its case in 72 ITR (Trib) 26 (Chennai), the relevant portion is extracted as under :

"24. Ground No. 4 challenges the disallowance of ex-gratia payment of Rs. 4,46,29,688/-. We dealt with this issue in assessee's own case in ITA No. 1342/Chny/2013 for AY 2007-08 for the reasons stated vide para 6.3 of the order therein, we allow this ground of appeal in favour of the assessee bank. We direct the AO to allow the exgratia of Rs. 4,46,29,688/- as a deduction. Hence, this ground of appeal is allowed.

24.1 In the result, ground of appeal No. 4 of the assessee is allowed."

Following the co-ordinate bench decision, supra, we do not find merit in the Revenue's appeal, therefore, the corresponding grounds are dismissed."

7.2 In this view of matter and consistent with view taken by the Co-ordinate Bench, we are of the considered view that there is no error in the reasons given by the Id.CIT(A) to delete additions made towards disallowance of ex-gratia payment and thus, we are inclined to uphold the findings of the Id.CIT(A) and reject ground taken by the Revenue."

17.2 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue."

16.3 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue.

17. The next issue that came up for our consideration from Ground Nos. 10 to 12 of the Revenue appeal is towards the deduction u/s.36(1)(viiia).

17.1 The Appellant Bank had claimed a deduction of Rs. 225,89,92,063/- u/s.36(1)(viiia). The AO restricted this deduction to Rs. 107.28 Cr and disallowed Rs. 118,61,29,245/- on account of the following reasons:

- a) That some branches are situated in village panchayat which are part of greater metropolitan area and as such, the same cannot be treated as rural area even if the population is less than 10000. Further, in respect of 2 branches, the population is more than 10000.*
- b) That the deduction is available only in respect of advances made by the rural branches in the relevant year. Therefore, only the incremental advance made by the rural branches in the relevant year has to be considered for arriving at the deduction.*

17.2 The CIT(A) following earlier years orders, deleted the disallowance.

17.3 The Ld. DR relied on the order of the AO.

17.4 The Ld. AR submitted that this issue is squarely covered by the decision of this ITAT in the Appellant's own case in ITA No.1343/Chny/2019 (supra).

17.5 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We find that an identical issue has been considered by the co-ordinate bench of the Tribunal in the Appellant Bank's own case in ITA No. 1343/Chny/2019 (supra), where under the identical set of facts has decided the issue in favour of the assessee. The relevant findings of the Tribunal are as under:-

" 22.3. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We find that an identical issue has been considered by the Tribunal in the case of City Union Bank (supra), where under identical set of facts has decided the issue in favour of the assessee. The relevant findings of the Tribunal are as under:-

"12.3 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. As per Rules 6ABA of I.T. Rules, 1962, for the purpose of clause (vii) of sub-section (1) of section 36, an aggregate average advance made by the rural branches of a scheduled bank shall be computed by taking into account the amount of advances made by each rural branch as outstanding at the end of the last day of each month comprised within the previous year. If you go by Rule 6ABA of I.T. Rules, 1962, it talks about the aggregate average advances made by the rural branches as outstanding at the end of the last day of each month, but it does not speak about only advances given by rural branches during the relevant financial year. Further, the Hon'ble Madras High Court in appellant's own case has considered an identical issue and by following the decision of Hon'ble Kolkata High Court in the case of PCIT vsUttarbangakshetriya Gramin Bank [2018] 94 Taxman.com 90 Kolkata, held that aggregate average advances made by rural branches as outstanding at the end of the last day of each month should be considered,

but not aggregate monthly advances taking loans and advances made only during the previous year relevant to the assessment year as computed by the Assessing Officer. But, the High Court has remitted the matter back to the file of the Assessing Officer for the purpose of re-computation after considering the fact that the Assessing Officer has not computed deduction based on the documents produced by the assessee. The relevant findings of the Hon'ble High Court are as under:

"10.2 Similarly, the second issue relating to deduction of Rs. 8.53 crores u/s. 36(1)(viiia) with regard to the provision for bad and doubtful debts, is covered by the decision in Principal Commissioner of Income Tax, Jalpaiguri v. UttarbangaKshetriyaGramin Bank [(2018) 94 taxmann. Com 90 (Calcutta), in favour of the assessee and the relevant passage of the same is usefully extracted below:

"6. Mr. Nizamuddin, learned advocate appeared on behalf of the Revenue and submitted the amended direction made by the Tribunal on the ITO has resulted in the assessee getting double deduction which is not permissible on computation made under Rule 6ABA. He submitted a double deduction in the manner thus obtained by the assessee has not been expressly provided. He relied on a judgment of the Supreme Court in the case of Escorts Ltd. v. Union of India reported in (1993) 199 ITR 43, on the following portion in the said judgment appearing in page 64 of the report.

"A double deduction cannot be a matter of inference, it must be provided for in clear and express language, regard being had to its unusual nature and its serious impact on the revenues of the State."

7. 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)(viiia). Clause (a) and (b) in Rule 6ABA cannot be given the restricted interpretation. The amount 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 provide 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.

8. 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.

9. For the reasons aforesaid we do not find the questions suggested to be substantial questions of law involved in the case. As such the application and appeal are dismissed. "

11. This court has no disagreement with the legal proposition laid down in the aforesaid decisions. However, in the present case, though there was no double deduction, as alleged by the appellant / Revenue, there was no clear vision about the advances made by the rural and non-rural branches of the bank and the quantum of deduction was not properly determined by the assessing officer based on the materials furnished by the respondent / assessee. In this context, the relevant paragraphs of the assessment order dated 31.03.2006 passed by the assessing officer are quoted below:

"5.3 When the assessee was asked to clarify whether the advances which were considered to be bad and doubtful in earlier years and for which the provision was made so as to claim deduction under section 36(1)(viiia) of the Act, have been recovered subsequently, it was stated that as the provision claimed was not with reference to any particular debt due to the assessee but on an overall basis, it is not possible to certify that the bad debts claimed as trading loss for deduction u/s. 36(1)(viiia) was recovered or not. It was also stated that the assessee would not be able to give age-wise details of outstanding advances for the branches more so for the rural branches with reference to which the deduction was claimed, so as to determine whether any advance of earlier year for which provision was made is still outstanding.

5.4. In other words, the assessee is not in a position to give details of the advances with

reference to which the deduction of Rs. 14.99 crores was allowed as per Annexure 2 as deduction under section 36(1)(viia) towards unknown and anticipated trading loss by virtue of mere provision made on ad-hoc basis for bad and doubtful debts and to confirm that these advances were still outstanding as at the end of the previous year relevant to this accounting year."

"6.3.1. Therefore due to assessee's inability to relate the provision to any particular advance of a branch, it cannot be said whether it is a provision for rural advance or for non-rural advance so as to examine the monetary limit prescribed under section 36(1)(viia) for allowing deduction thereunder. Then such provision is only reserve for bad debts and not provision for bad and doubtful debts. Though the provisions of section 36(1)(viia) may be understood as a beneficial provision to the assessee company to claim deduction even in respect of reserve created by it to meet certain anticipated loss or contingency due to default of its debtors whom the assessee may not be able to easily identify at the end of the previous year, yet the computation machinery for determining the deduction admissible in the matter of write off bad and doubtful debts of rural or nonrural advance u/s. 36(1)(v) read with the proviso thereunder and section 36(2)(v) of the Act would fail."

Thus, it is evident from the above extract that the quantum of deduction arrived at by the assessing officer was not based on the documents produced by the respondent / assessee. The CIT(A) as well as the Tribunal also, did not look into those aspect, while allowing the deduction claimed by the respondent / assessee. Therefore, this court is of the opinion that for that limited purpose, the matter has to be re-examined by the assessing officer and the same has also been agreed upon by the learned counsel appearing for both sides.

12. In such view of the matter, the order of the Tribunal, which is impugned herein, is set aside and the matter is remitted to the assessing officer for quantification of the deduction allowable to the respondent. The assessing officer shall complete the said exercise, after providing due opportunity to the respondent for submission of both oral and documentary evidence, if any, and pass appropriate orders, on merits and in accordance with

law, within a period of three months from the date of receipt of a copy of this judgment.

12.4 In so far as deciding a particular branch is rural branch or not, the population of 2011 census should be considered because said data was officially available with the bank while deciding the branches as rural branches or urban branches and this issue is covered by the decision of ITAT, Chennai benches in the case of KarurVysya Bank in ITA Nos. 2762/Chny/2017 & 332/Chny/2018, dated 03.11.2011, where the issue has been discussed in detail. Therefore, we direct the Assessing Officer to consider the issue in light of the decision of the ITAT, Chennai Benches in the case of KarurVysya Bank vs CIT (Supra).

12.5 In this view of the matter and considering facts and circumstances of the case and also following the decision of Hon'ble High Court of Madras in appellant's own case for earlier years, we are of the considered view, that the Assessing Officer is erred in computing deduction u/s. 36(1)(viiia) of the Act, by considering only incremental advances made by rural branches of appellant bank as against the aggregate average advances made by rural branches of appellant bank as outstanding at the end of the financial year and thus, we direct the Assessing Officer to consider aggregate average advances outstanding at the end of the relevant financial year for the purpose of computing deduction u/s. 36(1)(viiia) of the Act. Further, to compute correct amount of deduction, the matter has been set aside to the file of the Assessing Officer with a direction to reconsider the issue in light of our discussions given herein above and also the details that may be filed by the assessee."

22.4 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue."

17.6 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue.

18. The next issue that came up for our consideration from ground No. 13 to 15 of Revenue appeal is against the deletion of Rs.2,37,55,647/- made by the AO towards income received in advance.

18.1 The AO observed that the assessee claimed income received in advance amounting to Rs.2,37,55,647/- as liability in the return. He treated the income received in advance as income of the assessee for the Asst Year 2017-18 and added to the total income. The CIT(A) deleted the addition.

18.2 The DR relied on the orders of the AO.

18.3 The Ld. AR submitted that this issue is squarely covered by the decision of this ITAT in the Appellant's own case in ITA No. 1343/Chny/2019 (supra).

18.4 We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We find that an identical issue has been considered by the co-ordinate bench of the Tribunal in the Appellant Bank's own case in ITA No. 1343/Chny/2019 (supra), where under the identical set of facts has decided the issue in favour of the assessee. The relevant findings of the Tribunal are as under:-

"24.3. We have heard the rival parties, perused material available on record and gone through orders of the authorities below. We find that this issue is squarely covered by the Hon'ble Madras High Court decision in the assessee's case (supra) in which it allowed the appeal of the assessee and reversed the decisions of the lower authorities. Since the decision of the ITAT based on which the AO made the addition has been reversed by the Hon'ble Madras High Court,

respectfully following the same, we delete the addition made by the AO and allow the assessee's ground of appeal."

18.5 Respectfully following the above decision, we are inclined to uphold the findings of the CIT(A) and reject the ground taken by the Revenue.

19. In the result, appeal filed by the Revenue for assessment year 2014-15 is dismissed.

20. As a result, the appeal filed by the assessee for the assessment year 2017-18 is partly allowed for statistical purpose and appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 20th September, 2024 at Chennai.

Sd/-
(एबी टी वर्की)
(ABY T VARKEY)
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 20th September, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF