IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA Nos. 1032, 1033 & 1040/Bang/2024
Assessment Years : 2014-15, 2016-17 & 2017-18

Bank of Baroda ("e-Vijaya Bank"), 2nd Floor, Bandra Corporate Centre, Bandra Kurla Complex, Bandra (East), Mumbai – 400 051. **PAN: AAACV4791J**	**Vs.**	The Joint Commissioner of Income Tax, LTU, Bangalore.
APPELLANT		**RESPONDENT**

Assessee by	:	Shri S. Ananthan, CA, Smt. Lalitha Rameswaran, CA & Ms. Brinda Rameswaran, CA
Revenue by	:	Shri Sridhar .E, CIT-DR

Date of Hearing	:	09-09-2024
Date of Pronouncement	:	28-11-2024

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These are the appeals filed by the assessee challenging the orders of the NFAC, Delhi dated 29/03/2024, 270/03/2024 and 29/03/2024 in respect of the A.Ys. 2014-15, 2016-17 and 2017-18 respectively.

2. The brief facts of the case are that the assessee is a nationalized bank and during the A.Y. 2014-15, the assessee had not computed the book profit u/s. 115JB of the Act on the ground that the assessee is not a company but

only a public sector bank. The AO computed the book profit u/s. 115JB of the Act and also made certain disallowances while computing the book profits and added the same to the book profits arrived u/s. 115JB of the Act. The assessee challenged the said proceedings before the Ld.CIT(A) but the Ld.CIT(A) had not accepted the case of the assessee and dismissed the appeals.

3. For the sake of convenience, the dispute involved in the other two i.e. A.Y. 2016-17 and 2017-18 are enumerated as follows:

2016-17

Sl. No.	Particulars	Amount (in Rs.)
1	Disallowance of bad debts claimed u/s 36(1)(vii)	1225,48,50,405
2	Disallowance of CSR expenditure	2,73,39,000
3	Disallowance of Penalty levied by RBI	5,96,810
4	Disallowance of expenditure u/s 14A	52,87,69,672
5	Restriction of claim u/s 36(1)(viia) to Rs 178.03 crores against the claim of Rs 634.27	456,23,09,625
6	Rejection of claim made u/s 36(1)(viii)	77,86,61,944
7	Disallowance of Depreciation on Investment	325,61,24,113
8	Disallowance of sundry assets written off	1,31,98,076
	Total	**2142,18,49,645**

2017-18

Sl. No.	Particulars	Amount (in Rs.)
1	Disallowance of bad debts claimed u/s 36(1)(vii)	1295,07,50,151
2	Disallowance of CSR expenditure	4,97,00,000
3	Disallowance of Penalty levied by RBI	19,13,625
4	Disallowance of expenditure u/s 14A	3,31,88,493
5	Restriction of claim u/s 36(1)(viia) to Rs 246.50 crores against the claim of Rs 617.28	370,77,37104/-
6	Rejection of methodology of claim made u/s 36(1)(viii)	-
7	Disallowance of sundry assets written off	1,03,74,611
	Total	**1675,36,63,984**

4. Apart from the above disallowances, the Ld.AO had also computed the tax liability u/s. 115JB of the Act and arrived the book profit and the tax payable under MAT provisions.

The assessee also challenged the proceedings before the NFAC and the NFAC also confirmed the computation of the tax liability u/s. 115JB of the Act but deleted the following additions:

AY 2016-17

Sl. No.	Particulars	Amount (in Rs.)
1.	Disallowance of bad debts claimed u/s 36(1)(vii)	1225,48,50,405
2.	Disallowance of expenditure u/s 14A	52,87,69,672
3.	Restriction of claim u/s 36(1)(viia)	378,87,40,448
4.	Rejection of claim made u/s 36(1)(viii)	77,86,61,944
5.	Disallowance of Depreciation on Investment	325,61,24,113

AY 2017-18

Sl. No.	Particulars	Amount (in Rs.)
1.	Disallowance of bad debts claimed u/s 36(1)(vii)	1295,07,50,151
2.	Disallowance of expenditure u/s 14A	3,31,88,493
3.	Restriction of claim u/s 36(1)(viia) to Rs 246.50 crores against the claim of Rs 617.28	370,77,37104/-
4.	Rejection of methodology of claim made u/s 36(1)(viii)	-

5. The Ld.CIT(A) had confirmed the following disallowances

AY 2016-17

Sl. No.	Particulars	Amount (in Rs.)
1.	Disallowance of CSR expenditure	2,73,39,000
2.	Disallowance of penalty levied by RBI	5,96,810
3.	Disallowance of sundry assets written off	1,31,98,076
	Total	**4,11,33,886**

AY 2017-18

Sl. No.	Particulars	Amount (in Rs.)
1.	Disallowance of CSR expenditure	4,97,00,000
2.	Disallowance of penalty levied by RBI	19,13,625
3.	Disallowance of sundry assets written off	1,03,74,611
	Total	**6,19,88,236**

6. As against the said orders of the Ld.CIT(A), the assessee is in appeal before this Tribunal challenging the computation of the tax liability u/s. 115JB of the act and the various disallowances made by the Ld.CIT(A) with the following grounds:

AY 2014-15:

"1. The order of the learned Commissioner of Income Tax (Appeals) is bad in law and against the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) erred in holding that provisions of Section 115JB are applicable to the bank.

2.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the provisions of Section 115JB of the Act are not applicable to the appellant.

2.2. The learned Commissioner of Income Tax (Appeals) erred in not following the binding decision of the High Courts & Tribunals.

3. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) erred in adding various items to arrive at the book-profit which are beyond the scope of the section.

3.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the various items added to the book-profit are not covered by the Explanation to Section 115JB.

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

AY 2016-17

"1. The order of the learned Commissioner of Income Tax (Appeals) is bad in law and against the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) erred in law in disallowing the CSR expenditure incurred by the Bank amounting to Rs. 2,73,39,000/- by holding that the expenditure on CSR activities is not an allowable expenditure u/s 37 post amendment made to Section 37 which is applicable from AY 2015-16.

2.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the provisions of Section 135 of the Companies Act, 2013 are not applicable to the Appellant Bank.

2.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that where expenditure has been incurred based on the guidelines framed by Government of India on CSR for Central Public Sector Enterprises, u expenditure would meet the grounds of commercial expediency and accordingly. such expenditure would be allowable u/s 37.

2.3. The learned Commissioner of Income Tax (Appeals) erred in not following the binding decision of the High Courts & Tribunals.

2.4.Without prejudice to the above, the learned Commissioner of Income Tax
(Appeals) failed to appreciate the fact that activities undertaken by the Bank has generated goodwill among the customers of the bank and helped in its business.

3. The learned Commissioner of Income Tax (Appeals) erred in upholding the disallowance of Rs 5,96,810/- paid to RBI & others as penalties.

3.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the amount paid to RBI is not towards violation of any legal provisions.

4. The learned Commissioner of Income Tax (Appeals) erred in upholding disallowance of sundry assets written off amounting to Rs 1,31,98,076/-.

4.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate that disallowance made by the Assessing Officer was based on surmises and conjunctures.

4.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the same is an allowable deduction.

5. The learned Commissioner of Income Tax (Appeals) erred in holding that provisions of Section 115JB are applicable to the bank.

5.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the provisions of Section 115JB of the Act are not applicable to the appellant.

5.2. The learned Commissioner of Income Tax (Appeals) erred in not following the binding decision of the High Courts & Tribunals.

6. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) erred in not adjudicating various items added to arrive at the book-profit which are beyond the scope of the section.

6.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the various items added to the book-profit are not covered by the Explanation to Section 115JB.

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

AY 2017-18

"1. The order of the learned Commissioner of Income Tax (Appeals) is bad in law and against the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) erred in law in disallowing the CSR expenditure incurred by the Bank amounting to Rs. 4,97,00.000/- by holding that the expenditure on CSR activities is not an allowable

expenditure u/s 37 post amendment made to Section 37 which is applicable from AY 2015-16.

2.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the provisions of Section 135 of the Companies Act, 2013 are not applicable to the Appellant Bank.

2.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that where expenditure has been incurred based on the guidelines framed by Government of India on CSR for Central Public Sector Enterprises, such expenditure would meet the grounds of commercial expediency and accordingly, such expenditure would be allowable u/s 37.

2.3 The learned Commissioner of Income Tax (Appeals) erred in not following the binding decision of the High Courts & Tribunals.

2.4. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that activities undertaken by the Bank has generated goodwill among the customers of the bank and helped in its business.

3. The learned Commissioner of Income Tax (Appeals) erred in upholding the disallowance of Rs 19,13,625/- paid to RBI & others as penalties.

3.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the amount paid to RBI is not towards violation of any legal provisions.

4. The learned Commissioner of Income Tax (Appeals) erred in upholding disallowance of sundry assets written off amounting to Rs 1,03,74,611/-.

4.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate that: disallowance made by the Assessing Officer was based on surmises and conjunctures.

4.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the same is an allowable deduction.

5. The learned Commissioner of Income Tax (Appeals) erred in holding that provisions of Section 115JB are applicable to the bank.

5.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the provisions of Section 115JB of the Act are not applicable to the appellant.

5.2 The learned Commissioner of Income Tax (Appeals) erred in not following the binding decision of the High Courts & Tribunals.

6. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) erred in adding various items to arrive at the book-profit which are beyond the scope of the section.

6.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the various items added to the book-profit are not covered by the Explanation to Section 115JB.

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

7. At the time of hearing, the Ld.AR submitted that the Hon'ble Special Bench of the Mumbai Tribunal had decided the issue of the applicability of Section 115JB of the Act in so for as the Nationalised Banks are concerned and held that the banks are not companies and therefore Section 115JB would not apply to the banking concerns and consequently, the other disallowances by treating the assessee as a company and added the same to the book profits is also not correct and filed a paper book of case laws in support of his argument. The Ld.AR also brought to our notice that the other issues disputed in the assessment years 2016-17 and 2017-18 are also covered by the orders of the Tribunal as well as the Hon'ble Gujarat High Court and prayed to allow the appeals.

The Ld.DR relied on the order of the lower authorities and prayed to dismiss the appeals.

8. We have heard the arguments of both the sides and perused the materials available on record.

9. Firstly, we will take up the issue of applicability of section 115JB to the assessee bank since it involves in all the 3 assessment years.

10. The first dispute relates to the applicability of section 115JB of the Act. Insofar as the assessee bank is concerned, it is not in dispute that it is a public sector bank came into existence during the year 1969 by way of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970 and in the said Act, the assessee bank was termed as corresponding new bank.

11. We have perused the Special Bench order of the Mumbai Tribunal in ITA No.424/Mum/2020 dated in the case of Union Bank of India Vs DCIT, LTU(2) in which a question of law has been framed which is as follows:

> *"Whether clause (b) to sub section (2) of section 115JB of the Income-tax Act inserted by Finance Act, 2012 w.e.f. 1-4-2013 will bring the assessee-banks constituted as 'corresponding new bank' in terms of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 within the scope of section 115JB of the Act from assessment year 2013-14 onwards?"*

12. The Hon'ble Special Bench in its order dated 06/09/2024 in ITA Nos. 424/Mum/2020 & 3740/Mum/2018, in the case of Union Bank of India vs. DCIT, LTU (2), Mumbai had given the following finding after elaborately discussed the issue.

> *"59. Thus, the aforesaid notification read with provision of Section 194A(3), makes it clear that even Government of India considers the above entities separate and distinct from banking companies. Once under the Income Tax Act, Legislature itself has made a distinction for the aforesaid banks including the assessee are not covered as banking company, then, this further buttresses the point that these banks are separate and distinct from other banking companies.*
>
> *60. Accordingly, the question referred to Special Bench is decided in favour of the assessee banks that clause (b) to*

sub section (2) of section 115JB of the Income-tax Act inserted by Finance Act, 2012 w.e.f. 1-4-2013, that is, from assessment year 2013-14 onwards, are not applicable to the banks constituted as 'corresponding new bank' in terms of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and therefore, the provision of Section 115JB cannot be applied and consequently, the tax on book profits (MAT) are not applicable to such banks."

13. In view of the categorical finding given by the Hon'ble Special Bench, we came to the conclusion that the assessee is not a company and therefore the section 115JB would not be applicable to all the assessment years in dispute. Therefore, we set aside the orders of the AO as well as the Ld.CIT(A) insofar as the applicability of section 115JB of the Act is concerned and decide the issue in favour of the assessee.

14. The other dispute involved in the assessment year 2014-15 is with regard to additions made to book profits u/s. 115JB of the Act. The AO as well as the Ld.CIT(A) had confirmed the following additions made to the book profit u/s. 115JB of the Act by holding that such provisions / written off would get covered under clause (i) to Explanation 1 of section 115JB of the Act.

Sl.No.	*Particulars*	*Amount (in Rs)*
1.	*Bad debts written off*	*2,58,26,390*
2.	*Sundry assets written off*	*20,74,636*
3.	*Provision for NPA*	*367,77,05,141*
4.	*Provision for restructured accounts*	*13,04,66,000*
5.	*Diminution in value of investment on shifting*	*77,07,91,951*
	Total	*460,68,64,118*

15. The additions made to the book profits are based on the premise that the assessee is a company liable to be assessed u/s 115JB of the Act. In the earlier paragraphs, we have discussed about the applicability of section 115JB to the assessee and we hold that the said provision would not be applicable to the assessee since the assessee is a public sector bank and not

a company registered under the provisions of the Companies Act, 1956 and governed under the provisions of the Banking Regulations Act, 1949. The above said disallowances were made based on the notion that the assessee is a company liable to be computed the tax u/s. 115JB of the Act. But the applicability of section 115JB was finally decided by the Hon'ble Special Bench and by following the order of the Hon'ble Special Bench of Mumbai Tribunal, we hold that the assessee is not a company and therefore the tax would not be computed u/s. 115JB of the Act. In such circumstances, the additions made to book profits under various heads by relying on the clause (i) to Explanation 1 to section 115JB is not correct. Once the assessee is not liable to compute the tax u/s. 115JB of the Act, the various additions to the book profit u/s. 115JB is also not correct. The Ld CIT (A) without discussing the case on merits had simply extracted the finding given by the Ld CIT(A) in the earlier round and dismissed the appeal which in our opinion is not correct. We are, therefore, inclined to set aside the order of the lower authorities insofar as the assessment year 2014-15 is concerned.

ITA Nos. 1033 and 1040/Bang/2024 (A.Ys. 2016-17 & 2017-18)

16. Now we will take up the other issues involved in the above two assessment years.

In both the assessment years, the dispute is with regard to the disallowance of CSR expenditure, disallowance of penalty levied by RBI and disallowance of sundry assets written off. Since the issues are common, we are deciding the issues by way of this common order.

17. Insofar as the disallowance of CSR expenditure is concerned, we were informed by the Ld.AR that the issue is no longer a dispute and the issue was already settled by the judgment of the Hon'ble Gujarat High Court reported in 422 ITR 164 (Gujarat) in the case of PCIT vs. Gujarat Narmada Valley Fertilizers and Chemicals Ltd. in which the Hon'ble High Court has given the following findings.

> *"This disallowance is restricted to the expenses incurred by the assessee under a statutory obligation u/s 135 of Companies Act 2013. and there is thus now a line of*

demarcation between the expenses incurred by the assessee on discharging corporate social responsibility under such a statutory obligation and under a voluntary assumption of responsibility. As for the former, the disallowance under Explanation 2 to Section 37(1) comes into play. but, as for latter. there is no such disabling provision as long as the expenses, even in discharge of corporate social responsibility on voluntary basis, can be said to be "wholly and exclusively for the purposes of business". There is no dispute that the expenses in question are not incurred under the aforesaid statutory obligation. For this reason also. as also for the basic reason that the Explanation 2 to Section 37(1) comes into play with effect from 1st April 2015. we hold that the disabling provision of Explanation 2 to Section 37(1) does not apply on the facts of this case."

18. Further, the Coordinate Bench of this Tribunal also considered the issue in ITA No. 3300/Bang/2018 dated 01.12.2021 in the case of Hanumantha Rao vs. ACIT in which the Coordinate Bench has followed the earlier order of the Coordinate Bench and extracted the findings given in the earlier order and allowed the ground raised by the assessee, which is as follows

"19. Thus, it is evident that the disallowance is restricted to the expenses incurred by the assessee under a statutory obligation u/s. 135 of the Companies Act, 2013 and there is thus now a line of demarcation between the expenses incurred by the assessee on discharging corporate social responsibility under such a statutory obligation and under a voluntary assumption of responsibility. As for the former, the disallowance under Explanation 2 to section 37(1) comes into play, but as for latter, there is no such disabling provision as long as the expenses, even in discharge of corporate social responsibility on voluntary basis, can be said to be "wholly and exclusively for the purposes of business". There is no dispute that the expenses in question are not incurred under the aforesaid statutory obligation. In the present case, the said expenditure is incurred by the assessee on discharging social responsibility so as to earn the goodwill of the society and it is wholly and exclusively for the purpose of business.

20. Therefore, the provisions of Explanation to section 37 of the Act cannot be applied. Further, in the present case, the assessee being an individual, and not a

corporation under the Companies Act, 2013, Explanation 2 to section 37 cannot be applied so as to deny the voluntary expenditure incurred by assessee towards community welfare. Accordingly, we are of the opinion that the expenditure incurred is wholly and exclusively for the purpose of business of assessee and has to be allowed as business expenditure. Accordingly, this ground of appeal is allowed."

19. We have also gone through another order of the Coordinate Bench of this Tribunal in ITA No. 752/Bang/2022 dated 06.12.2022 in the case of Union Bank of India vs. DCIT in which the Coordinate Bench had given the following findings and allowed the same.

"The decision of the Hon'ble Calcutta High Court in the case of CIT Vs. Eastern Coalfields Ltd., (supra) where Government of India framed guidelines on corporate social responsibility for central public sector enterprises, such public sector is bound to formulate a policy in terms of the said guidelines and if an obligation springs from complying with the said guidelines, it has to be regarded as expenditure incurred on grounds of commercial expediency and allowed as a deduction. Therefore the expenditure in question, on the facts of the present case, satisfies the requirements of Sec.37(1) of the Act. In view of the facts and circumstances of the given case, we are of the view that the deduction claimed by the assessee should be allowed in full. We hold and direct accordingly and allow ground No.3 raised by the assessee."

In view of the above said judgment and the orders, we are also accepting the case of the assessee and allow the CSR claim made by the assessee as allowable expenditure for AY 2016-17 and 2017-18.

20. The other dispute raised by the assessee is the penalty imposed by the Reserve Bank of India for the deficiencies in exchange of notes and coins/remittances sent to RBI for operations of currency chest etc. which is a civil liability under the RBI Act and therefore allowable expenditure u/s. 37 of the Act and therefore the assessee claimed the same as an allowable expenditure u/s. 37 of the Act.

21. We have also perused the order of the Mumbai Bench on this issue in ITA No. 3394 & 3849/Mum/2019 dated 09.02.2021 wherein the Mumbai Bench had considered the issue in detail and relied on the judgment of the Hon'ble Bombay High Court in ITA No. 4117 of 2010 in the case of CIT vs. Stock & Bond Trading Company and gave the following finding and allowed the case on the assessee.

> *"12. We have heard the rival submissions and perused the relevant materials on record. In M/s Stock & Bond Trading Company (supra) one of the questions was whether the Tribunal was justified in deleting the additions made by the AO under provisions to section 37(1) being penalty imposed by the National Stock Exchange on the assessee. The Hon'ble High Court held that :*
> *"3 As regards the second question is concerned, the finding of fact recorded by the CIT(A) and upheld by the ITAT is that the payments made by the Assessee to the Stock Exchange for violation of their regulation are not on account of an offence or which is prohibited by law. Hence, the invocation of explanation to section 37 of the Income Tax Act, 1961 is not justified. In our opinion, in the facts and circumstances of the present case, no fault can be found with the decision of the ITAT. Accordingly, the second question cannot be entertained."*
> *In Bapunagar Mahila Co-operative Bank Ltd. (supra), the Tribunal held that :*
> *"20. We come to the assessee's first substantive ground. The RBI imposed a penalty of Rs.5 lacs (supra) u/s. 47A (1)(b) of the Banking Regulation Act,1947 alleging violation of KYC norms. Both the authorities below hold that a penalty imposed does not give rise to any corresponding revenue expenditure being penal in nature.*
> *21. It has come on record that this penalty arises from the assessee's action in opening 250 FDRs (supra) already dealt in Revenue's appeal. The question that arises for our consideration is as to whether the word 'penalty' results in a blanket disallowance or facts involved therein still need to be examined. The hon'ble Kerala high court (2004) 265 ITR 177 CIT v/s. Catholic Syrian Bank holds that an important test in such a case is as to whether the penalty for non compliance entails compensatory or penal consequences. And also that if any criminal liability or prosecution is provided, a levy is penal in nature. Section 46 r.w.s. 47A(1)(b) of the Banking Regulation law does not stipulate any such criminal liability. We follow the aforestated case law in these facts and direct the*

assessing authority to allow the assessee's claim of Rs.5 lacs as revenue expenditure."

In Mangal Keshav Securities Ltd. (supra), the assessee was engaged in the business of share/stock broking. It paid a sum of fine/penalty to stock exchange for non-maintenance of KYC forms etc. Said penalty was disallowed by the AO by invoking Explanation 1 to section 37. The Tribunal held that :

"The assessee-company is engaged into stock broking activities and also in financial services which involves substantial compliance requirements with various regulatory authorities, e.g., BSE, NSE, CDSL, NSDL and SEBI, etc. In the regular course of the business of the assessee-company, certain procedural non-compliance are not unusual, for which the assessee is required to pay some fines or penalties. These routine fines or penalties are 'compensatory' in nature; they are not punitive.

These fines are generally levied to ensure procedural compliances by the concerned persons. Only those payments, which have been made by the assessee for any purpose which is an 'offence' or which is 'prohibited by law', shall alone would be hit by the Explanation to section 37. Thus impugned amount of penalty was allowable as deduction."

12.1 In the instant case, as recorded by the AO the assessee has claimed expenses on account of penalty of Rs.15,00,000/- imposed by the RBI u/s 47A of the Banking Regulation Act, 1949 and Rs.94,200/- for non-compliance of guidelines on customer service, guidelines in respect of exchange of coins and small de-nomination notes and mutilated notes. The ratio laid down in the decisions mentioned at para 12 is squarely applicable to the instant case instead of the decision in ANZ Grindlays Bank (supra) relied on by the Ld. DR."

In view of the above said judgment and the orders, we are also accepting the case of the assessee and allow the penalty imposed by the Reserve Bank of India as eligible for deduction u/s, 37 of the Act for AY 2016-17 and 2017-18.

22. The next dispute is about the disallowance of sundry assets written off by the assessee bank by debiting the profit and loss account and squaring off the individual items in the books and claimed the same as allowable expenditure.

The Ld.CIT(A) had given a finding that the assessee had not furnished any evidence to prove that the findings of the AO is incorrect and therefore confirmed the disallowance made by the AO.

We have considered the submissions made by the Ld.AR that the small value of the assets were written off by the assessee by debiting their P&L account and finally they have also squared off the said items in the books of accounts.

This fact was not verified by the Ld.AO as well as by the Ld.CIT(A). We therefore set aside the order of both the authorities insofar as the above issue is concerned and remit the issue to the assessing officer for denovo consideration.

We also made it clear that in the event, the AO finds that the submission made by the assessee is correct , to allow the said written off as allowable expenditure.

23. In the result, the appeal filed by the assessee in ITA No. 1032/Bang/2024 is allowed and the appeals in ITA Nos. 1033 and 1040 are partly allowed for statistical purposes.

Order pronounced in the open court on 28th November, 2024.

Sd/-	Sd/-
(WASEEM AHMED)	(SOUNDARARAJAN K.)
Accountant Member	Judicial Member

Bangalore,
Dated, the 28th November, 2024.
/MS /

Copy to:

1. Appellant	2. Respondent
3. CIT	4. DR, ITAT, Bangalore
5. Guard file	6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore