

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.112/Bang/2024
Assessment year: 2020-21

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

Appellant by	:	Shri S. Ananthan, CA
Respondent by	:	Smt. Srinandini Das, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	05.05.2025
Date of Pronouncement	:	13.05.2025

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by Canara Bank [Erstwhile Syndicate Bank] (the assessee/appellant) for the assessment year 2020-21 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(A)] dated 29.11.2023 wherein the appeal filed by the assessee against the assessment order dated 27.9.2022 passed by the DCIT, Circle 2(1)(1), Bangalore u/s. 143(3) of the Income-tax Act, 1961 [the Act] was partly allowed.

2. The assessee, aggrieved with the same, has preferred this appeal raising the following grounds of appeal :-

- “ 1. The order of the learned CIT(A) is against the law and facts of the case.
2. The learned CIT(A) erred in upholding the disallowance of Rs. 7451,67,48,894/-u/s 36(1)(vii).
 - 2.1. The learned CIT(A) erred in holding that non rural debts written off should be adjusted against the provision account u/s 36(1)(viiia).
 - 2.2. The learned CIT(A) failed to appreciate the fact that non rural debts written off are not covered by the proviso to section 36(1)(vii).
 - 2.3. The learned CIT(A) erred in holding that after the insertion of the Explanation 2 to section 36(1)(vii) non rural debts written off should also be adjusted against the provision a/c under clause 36(1)(viiia).
 - 2.4. The learned CIT(A) erred in not following the binding decisions of High Courts & Tribunals.
3. The learned CIT(A) erred in upholding the disallowance of the business loss on account of frauds committed by the borrowers of the bank amounting to Rs. 1632,04,00,000/-.
 - 3.1. The learned CIT(A) failed to appreciate the fact that this amount is allowable u/s 28 or u/s 37.
 - 3.2. The learned CIT(A) erred in holding that the loss on account of fraud should be treated as bad debt and allowable only u/s 36(1)(vii).
 - 3.3. Without prejudice to the above, the learned CIT(A) erred in holding that the loss on account of fraud should be adjusted against the provision a/c u/s 36(1)(viiia).

4. The learned CIT(A) erred in upholding the disallowance of Rs.2203,89,38,683/-out of the amount claimed as deduction u/s.36(1)(viiia).
- 4.1. The learned CIT(A) erred in considering only the incremental advance for the purpose of arriving at the deduction u/s 36(1)(viiia).
- 4.2. The learned CIT(A) failed to appreciate the fact that for the purpose of arriving at the Aggregate Average Advances as per Rule 6ABA, the outstanding balance at the end of each month needs to be considered and not the incremental advances.
- 4.3. The learned CIT(A) failed to follow the binding decisions of the jurisdictional High Court and Tribunal.
- 4.4. The learned CIT(A) failed to appreciate the fact that the deduction u/s 36(1)(viiia) has to be allowed on the basis of the calculation as provided in the section and not with reference to the amount of provision made in the books of account.
- 4.5. The disallowance made by the learned Assessing Officer and upheld by the learned CIT(A) is based on surmises and conjectures.
5. The learned CIT(A) erred in upholding disallowance u/s.14A of the I.T. Act r.w. Rule 8D, a sum of Rs.1,38,29,232/- being expenditure incurred towards earning exempt income.
- 5.1. The learned CIT(A) failed to appreciate the fact that the investments held by the Appellant bank are stock in trade and hence no disallowance u/s 14A can be made.
- 5.2. The learned CIT(A) failed to appreciate the fact that, as per Section 14A, for justifying a disallowance under that section, a finding on the incurring of expenditure for earning the exempt income is absolutely necessary on the part of the Assessing Officer. The learned Assessing Officer has not brought out any specific expenditure which has been incurred by the Appellant Bank for earning of exempt income. Under these circumstances, the addition now made is liable to be deleted.

- 5.3. The learned CIT(A) erred in invoking the provisions of Rule 8D without pointing out any defect in the computation of the disallowance made by the Appellant bank.
- 5.4. The learned CIT(A) failed to appreciate the fact that the application of Rule 8D is neither automatic nor mandatory.
- 5.5. Without prejudice to the above, the learned CIT(A) failed to appreciate that with effect from AY 2017-18, no disallowance of indirect interest expense can be made.
- 5.6. The learned CIT(A) erred in not following the decision of the Hon'ble Supreme Court applicable to the facts of the case.
6. The learned CIT(A) erred in disallowing Rs. 75,00,000/- paid to RBI.
- 6.1. The learned CIT(A) failed to appreciate the fact that the amount paid to RBI is not towards violation of any legal provisions.
7. The learned CIT(A) erred in upholding the order of learned Assessing Officer with regard to applicability of the provisions of Section 115JB of Income Tax Act, 1961 to the Appellant Bank.
- 7.1. The learned CIT(A) failed to appreciate that provisions of Section 115JB of the Income Tax Act, 1961 are not applicable to the appellant and as such, is not liable to pay tax under the said provisions.
- 7.2. Without prejudice to the above, the learned CIT(A) erred in adding various items to arrive at the book-profit which are beyond the scope of the section.
- 7.3. The learned CIT(A) failed to appreciate the fact that the various items added to the book profits are not covered by the Explanation to Section 115JB
 - 7.3.1. Expenditure related to exempt income of Rs. 3,02,73,686/-.
 - 7.3.2. Provision for Bad & Doubtful debts of Rs. 7088,79,87,000/-
 - 7.3.3. Depreciation on ATM of Rs. 9,91,87,587/-

7.3.4. Other provisions of Rs. 119,37,43,212/-

7.4. The learned CIT(A) erred in adding the depreciation on Fixed Assets as per Books and allowing the depreciation as per Income Tax Act, 1961.

8. The learned CIT(A) erred in not directing the learned Assessing Officer to allow the claim of the Appellant Bank u/s 80G.

9. The learned CIT(A) erred in upholding the Assessment order passed without issuing notice u/s 143(2) in the name of the Appellant Bank.

9.1. The learned CIT(A) failed to appreciate the fact that on the basis of notice issued in the name of non existent entity, no valid order can be passed u/s 143(3).

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

3. The brief facts of the case show that Syndicate Bank filed its return of income on 12.2.2021 at a loss of Rs.7816,87,80,217. Subsequently as per Notification dated 4.3.2020 it merged with Canara Bank w.e.f. 1.4.2020. Therefore this appeal is filed by Canara Bank.
4. The return was picked up for scrutiny and assessment proceedings commenced by issue of notice u/s. 143(2) of the Act on 29.6.2021. During the course of assessment proceedings, the above fact of merger of Syndicate Bank with Canara Bank was pointed out. Further notice u/s. 142(1) of the Act was issued on 23.8.2022 in the name of Canara Bank. The ld. AO after scrutiny of the return passed assessment order u/s. 143(3) of the Act on substantive basis in the hands of Syndicate Bank. Thus in the impugned order, the income of only Syndicate Bank

has been assessed in the impugned assessment order on protective basis in the hands of Canara Bank. In this assessment order, the income of Canara Bank has not at all been added. Thus for AY 2020-21, there are 2 assessment orders passed in the name of the same assessee, i.e., Canara Bank. In another order in ITA No.207/Bang/2024 for the same assessment year, the impugned assessment order is including the income related to Canara Bank only.

5. The assessee aggrieved with that Assessment order has preferred appeal before the Id. CIT(Appeals). It was argued before the Id. CIT(Appeals) that 143(2) notice issued in the name of Syndicate Bank on 29.6.2021. Subsequent notice issued on 23.8.2022 in the name of Canara Bank and assessment order framed in the name of resultant entity, Canara Bank, is bad in law. The Id. CIT(Appeals) dismissed this ground holding that assessee has responded u/s. 143(2) notice and subsequently order has been passed in the name of correct entity. The assessee has also appeared and represented in the assessment proceedings and therefore he dismissed this ground and other additions were dealt with on merits of the case and partial relief was granted.
6. Now the assessee is in appeal before us. At the time of hearing, the Id. AR submitted that in this appeal only the income of Syndicate Bank has been assessed in the hands of assessee on a protective basis by passing assessment order in the name of merged bank i.e. Canara bank. It was further stated that after the merger, the income is required to be assessed in the hands of Canara Bank, that too, on substantive basis, as

Syndicate Bank does not exist at all. He therefore submitted that the assessment order passed is bad in law. He referred to para 2 of the assessment order.

7. The Id. DR submitted that the facts stated in para 2 of the assessment order may be considered.
8. We have carefully considered the rival contentions. This is in fact the assessment with respect to income of the erstwhile Syndicate Bank which merged with Canara Bank w.e.f. 1.4.2020, therefore, there cannot be two assessment orders in the hands of Canara Bank, being one of the income of the Syndicate Bank for the impugned previous year and also on income of Canara Bank only. A solitary order is required to be passed in the name of Canara Bank, which includes the income of the banking unit of Canara Bank as well as banking unit of Syndicate Bank. It was submitted that this impugned assessment order only includes the income of Syndicate Bank and that too on protective basis. As the Revenue has already passed another assessment order and rectification order wherein the assessment order is passed in the name of Canara Bank where income of Canara Bank as well as Syndicate Bank, both are included in the total income of Canara Bank, therefore, now this order has become redundant. This appeal is also infructuous. Para 2 of the assessment order reads as under:-

“2. Before proceeding ahead, it is pertinent to mention that the Syndicate Bank was merged with Canara Bank, w.e.f. 01.04.2020 vide the Government Notification No. GSR155(E) dated 04-03-2020. Therefore, the assessment proceeding is proceeded and being completed under the identity of the transferee- Canara Bank

(Erstwhile Syndicate Bank) (Old PAN: AACCS4699E, New PAN: AAACC6106G). Syndicate Bank is amalgamated with Canara Bank with effect from 01.04.2020 by Reserve Bank India's Notification dated 04/03/2020. The notice under section 143(2) was issued in the case on 31.03,2021 in the name of Syndicate bank. On the date of issue of said notice, the entity Syndicate Bank ceases to exist. **However, to Protect the interests of the revenue an addition is substantively made in the hands of resultant entity which is Canara Bank, and made protectively in the case of Syndicate Bank. ”**

9. Thus as the income is already added in the hands of the Canara bank in another order, the interest of revenue is protected in substantive assessment order passed. Thus the impugned order becomes infructuous.
10. In view of this in the impugned appeal where only income is assessed in the hands of Canara Bank on protective basis is incorrect and deserves to be cancelled. Therefore, the appeal of the assessee is allowed by deleting the protective additions made in the impugned order.
11. In the result, the appeal by the assessee is allowed.

Pronounced in the open court on this 13th day of May, 2025.

Sd/-

(SOUNDARARAJAN K.)
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 13th May, 2025.

/Desai S Murthy/

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.