

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'F' BENCH,
NEW DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 2948/DEL/2024 [A.Y. 2017-18]

The Dy. CI.T.
New Delhi

Vs. Punjab National Bank
1st Floor, A Wing, Corporate Office
Plot No. 4, Sector - 10,
Dwarka, New Delhi

PAN - AAACP 0165 G

(Applicant)

(Respondent)

Assessee By : Shri K. Sampath, CA

Department By : Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing : 21.05.2025

Date of Pronouncement : 04.07.2025

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the Revenue is preferred against the order of the
ld. CIT(A) - 23, New Delhi dated 28.03.2024 pertaining to A.Y. 2017-18.

2. The Revenue has raised the following grounds of appeal:

"1. Whether in the facts and circumstances of the case, as the Ld. CIT(A) erred in deleting addition of Rs. 29,85,52,381/- made by the AO with respect to loss on amortization of premium on investment.

2. Whether in the facts and circumstances of the case, as the Ld. CIT(A) erred in deleting addition made by the AO with respect to disallowance of deduction of Rs. 508,57,53,935/- claimed on depreciation on investment.

3. Whether in the facts and circumstances of the case, as the Ld. CIT(A) erred in deleting addition of Rs. 2,78,63,000/- made by the AO with respect to disallowance of inter office adjustment.

4. Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in deleting the addition of Rs. 84,55,68,875/- made u/s 14A read with Rule BD only on following the decision of Hon'ble Supreme Court in the case of Maxopp Investment vs CIT(2018) ignoring the fact that the assessee earned exempt income during the year and the provisions under section 14A were mandatory provisions. To arrive at correct/real income, it was necessary to apportion the expenditure between taxable and non-taxable income.

5. In the facts and circumstances of the case, the Ld. CIT(A) erred in deleting the addition of Rs. 25,86,405/- made by the AO in respect to depreciation of good will, ITAT erred in not appreciating that the disallowance was made on the ground that the goodwill cannot be considered as business or commercial right within the meaning of section 32(1) read with Appendix I of the IT Act.

6. Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was legally justified in allowing deduction of Rs. 35,78,00,000/- of an amount credited to PNB Employees Pension Fund under section 43B of the Act even when the amount was not payable as per terms and conditions of the pension fund.

7. In the fact and circumstances of the case, the Ld. CIT(A) erred in deleting addition of Rs. 95,87,092/- made by the AO in respect to the issue of investment in venture capital fund & MTM derivatives. ITAT erred in not appreciating that if any loss had arisen to the assessee on account of VCF, the same should be adjusted against the profits of the same head and only net income be charged to tax in that particular head. But since LTCG on VCF with STT described as exempt, any loss arising out of such VCF is also exempt and is not allowable to be set-off against the other heads of income.

8. Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in allowing the deduction of Rs. 251,69,68,788/ under section 36(1)(viii) to the assessee ignoring the fact that the assessee had not provided the details of exact profit derived from eligible business.

9. The appellant craves, leave or reserving the right to amend, modify, add of forego, alter or amend any ground(s) of appeal raised above at the time of hearing of this appeal."

3. Facts pertaining to Ground No. 1 regarding loss on amortization of premium on investment are that the assessee bank, based on RBI

guidelines, had amortized the premium paid at the time of acquisition over the remaining life period of these securities. The assessee had consistently offered the entire profit on sale of securities as business income as per normally accepted principles of accounting and no part of the profits has been offered as capital gain.

4. RBI guidelines permit sale of the securities under HTM category even before their maturity. The assessee sold certain securities under HTM category before maturity and it is for this reason that the assessee treats these items as stock-in-trade. Once it is treated as stock-in-trade, as per the applicable accounting principle, it has to be valued at cost or market price, whichever is lower.

5. At the very outset, the ld. counsel for the assessee submitted that this issue is a recurring one and is settled in favour of the assessee by the decision of the Hon'ble Delhi High Court for AY 2009-10.

6. Per contra, the ld. DR relied upon the orders of the authorities below.

7. We have heard the rival submissions and have perused the relevant material on record. We find that this issue has been considered and decided by the Hon'ble High Court of Delhi in ITA No. 193/2024 in assessee's own case vide order dated 06.12.2024 in favour of the assessee and against the Revenue. Vide paras 12 to 16, the Hon'ble High Court has held as under:

"12. The third question relates to an addition of ₹338,13,24,273/-. The Assessee had claimed the said amount on account of amortization of premium on securities held maturity (HTM). A similar question had also arisen in earlier assessment years.

13. The learned counsel for the parties submits that whilst the Revenue has challenged the learned ITAT's order in respect of the AY 2005-06 and 2006-07, no question of law was framed by this court in ITA No.960/2018. The order dated 22.03.2024 passed by this court in ITA No.960/2018, which relates to the AY 2006-07 indicates that no question of law was framed by this court on the said issue.

14. Mr Rai, the learned counsel appearing on behalf of the Revenue confirms that in fact the Revenue did not project any question on the said issue in ITA No.960/2018 in respect of the AY 2006-07.

15. Apart from the fact that the Revenue has accepted the learned ITAT's decision in some of the AYs, we also find no merit in the Revenue's challenge to the amortisation of premium paid in respect of the Held to Maturity (HTM) securities. The securities under HTM category are those that are held till its redemption /maturity. Clearly,

if any premium is paid for acquiring the said securities over and above the face value or the redemption value of those securities, it would be apposite to amortize the same during the holding period. The market value of the fixed interest- bearing securities fluctuates on the basis of the market rate of interest. The differential amount between the coupon rate and the market rate is reflected by the premium or discount on which such securities are available.

16. Illustratively, the securities being a coupon rate which is lower than the market rate of interest would be available on discount while securities with a higher coupon rate would be available at a premium. We find no infirmity with the Assessee amortizing the premium paid on such securities over the holding period."

8. Respectfully following the same, Ground No. 1 is dismissed.
9. Ground No. 2 pertains to disallowance of deduction claimed on depreciation on investment of Rs. 5,08,57,53,935/- and Ground No. 7 pertains to investment in venture capital fund and MTM derivatives.
10. The facts in brief is that the Assessee Bank has always treated all its securities (except investments in Joint Ventures and Subsidiaries) as its stock-in-trade. Accordingly, interest income & profit /losses on sale are offered as business income/loss. Diminution in the value of such

securities, if any, is claimed as depreciation/loss. Similarly, appreciation in the value of securities is offered for taxation. The said depreciation has been claimed on account of valuation of securities under the category of Held for Trading (HFT) and Available for Sale (AFS). The resultant profits on sale in the subsequent years when these investments are actually sold is computed after considering the depreciated book value of the investments.

10.1 It is submitted that only the difference between the book value and the market value is claimed as diminution in the value of investment or depreciation since the same method is followed by all banks. What is claimed as loss in the computation of securities sold during the year is automatically reduced as the entire accumulated depreciation is deducted while computing the incremental depreciation on securities. Therefore, only the correct profit is reflected in the P&L A/c.

11. It is pointed out that this issue is a recurring issue and is settled in favour of the Bank by the Hon'ble Tribunal and is squarely covered by the decision of the apex Court in *UCO Bank vs. CIT* (1999) 240 ITR 355(SC) as well as the decisions of Coordinate Benches of ITAT in assessee's own case in earlier years.

12. We have heard the rival submissions and have perused the relevant material on record. We find that in all these cases, the ground raised by the Revenue has been the subject matter of consideration and has been dismissed by the Tribunal. We find that this issue is settled in favour of the assessee by the Tribunal in its own case in ITA 2954/Del/2012 for A.Y 2013-14 dated 13.05.2020 & in ITA 6782/Del/2018 for AY 2014-15 dated 13.04.2022 where the ITAT following the decision of the Hon'ble Apex Court in *UCO Bank* [supra] has deleted the said additions. In ITA Nos. 4253 & 2236/DEL/2011 dated 09.01.2019 the co-ordinate bench at paras 28 to 37 has held as under:

"28. Learned assessing officer found that the assessee had claimed deduction of Rs.288,11,30,000/- on account of depreciation on investment on account of valuation of securities under the category held for trading (HFT) and available for sale (AFS). Assessee banked upon the RBI guidelines and submitted that the investment portfolio of the banks is required to be classified under 3 categories, namely, held to maturity (HTM), held for trading (HFT) and available for sale (AFS); that in the investments classified under HTM category need not be market to market and are carried at an acquisition cost unless these are more than the face value, in which case the premium should be amortized over the period remaining to maturity; that in case of HFT and AFS, the

depreciation/appreciation is to be aggregated 22 scrip wise and only netted appreciation, if any, is required to be provided for in the accounts; that the said treatment is also disclosed as per paragraph No.5 of Significant Accounting Policies (schedule-17) adopted to the audited accounts. It was further submitted by the assessee that for the purpose of income tax, bank is treating all securities (except investment in subsidiaries and joint ventures) as stock in trade; that the interest received on such securities and profit/loss on sale of such securities irrespective of its categorization into HTM, HFT and AFS in the books, is offered as business income/loss and the same is also being assessed by the Department as business income/loss; and the diminution in value of such securities is considered as business loss and likewise really been depreciation on valuation of such securities, if any, is offered to tax. Assessee placed reliance on the decision of the Hon'ble Kerala High Court in the case of CIT vs. Nedungadi bank Ltd., 264 ITR 545 for the principle that the appreciation/loss in the value of investment was allowable expenditure.

29. Ld. Assessing officer after considering the submissions of the assessee, formed an opinion that though it was correct that the depreciation/loss is booked in accordance with the Banking Regulation Act and the revaluation is done in accordance with the guidelines of the RBI, however, the fact remains that these investments have not been shown in the books as "stock in trade" and its resultant profits on sale are not enhanced by the value of depreciation in subsequent years when these investments are actually sold.

30. In appeal, Ld. CIT(A) considered this issue at length and by following the orders of his predecessor in assessee's own case for the assessment years 2000-01 to 2005-06 decided the issue in favour of the assessee bank in the light of the decision of the Hon'ble Apex Court in the case of UCO Bank vs. CIT 240 ITR 355 (SC).

31. It is the argument of the learned DR that though the assessee has been relying on the orders of the Tribunal for the Assessment Years 2005-06 and 2006-07, facts involved in those matters are entirely different from the facts involved in this matter inasmuch as in Assessment Year 2005-06 the issue before the Tribunal was regarding the acquisition of broken period interest whereas for the assessment year 2006-07 the assessee debited the securities and stock in trade and claimed deduction of loss on the valuation of securities at the year-end on the basis of cost or market price, whichever is lower and confirmed by the orders of the 1st appellate authority. It is the submission of the Ld. DR that in the present appeal the fact is that the revenue is challenging the deduction on the ground that the assessee on one hand is taking benefit of deduction on diminution of the value of securities in the closing stock and on the other hand not carrying forward the impact of this claim of diminution on the value of securities in the opening stock. Ld. DR placed reliance on the decision of the Hon'ble Apex Court in the case of Southern technologies Vs. ACIT [2010] 187 Taxman 346 (SC).

32. We have perused the record and the case law relied upon by both the sides. It is an admitted fact that the assessee being a Nationalized Bank is governed by the Banking Regulation Act, 1949; that they are following mercantile system of accounting both for book keeping purpose as well as for tax purposes; that they have been valuing the stock-in-trade (investments) "at cost" in the balance sheet whereas for the same period of time the appellant has been valuing the very same investment "at cost or market value whichever is lower" for income tax purposes; that it is an established rule of commercial practice and accountancy that closing stock can be valued at cost or market price, whichever is lower. It could be seen from the record that the question as to the reflection of the investments being stock in trade in the audit report, profit and loss account and the annual report with the question of the value of securities as embedded in the closing stock and the corresponding figure as becoming the opening stock in the subsequent year was adverted to Indian judicial precedents.

33. Further as understood from the argument of the Ld. DR, her contention is that no opening stock or closing stock of securities mentioned in the profit and loss account though the assessee had claimed their investment in securities as stock in trade; and that if the investments are stock in trade, it should be reflected in the return of income, audit report, profit and loss account and the annual report and the diminution of the value of securities will be embedded in the closing stock and the corresponding figure will become the opening stock in the subsequent assessment years. On this she submitted that when once the assessee reduces the 25

depreciation and reaches a particular figure as the book value of the securities, then naturally when the securities were sold in the subsequent years the profit should be estimated with reference to the reduced value of the Scrips in the earlier years, but however in the case of the assessee, the cost of the security after reducing the same because of the appreciation was not changed or adjusted in the books resulting in the books reflecting the low profit and the resultant offering of less amount to tax.

34. The plea of the assessee, on the other hand, is that the treatment of the profit on sale of securities is a two-fold. Firstly, the profit on sale of securities will be lower due to the non attachment of cost of securities with deregulated appreciation claimed, but simultaneously at the second stage of the said transaction, claim of depreciation on securities for the year is also reduced to the extent of a community depreciation claimed earlier and resultantly the profit for the year is worked out correctly after taking into account both the folds of the transaction collectively.

35. On a careful consideration of the matter, we are of the considered opinion that it's not the case of the Ld. assessing officer that in this particular year in respect of any particular security such a thing had happened. It's not the case of the Ld. assessing officer that with reference to any particular scrip there was depreciation claimed in the earlier years, the loss was claimed as deduction but without showing the reduced value of the scrip as the opening value of the stock and thereby on the sale of the scrip the cost price but not the reduced price was taken as the cost of

acquisition and 26 thereby any less amount was offered to tax. The entire edifice of the case of revenue is based on the theoretical suspicion of the Ld. assessing officer that inasmuch as the assessee has not been showing in the balance sheet not the reduced value of the scrip but the cost price of the scrip as the value of the scrip, when the securities were sold it is the cost price of the scrip but not the reduced value of the scrip that was taken to estimate the profits and as a consequence of which the less amount has been offered to tax. It is a verifiable fact with reference to the sales of securities, if any, that took place during the year or earlier or subsequent years. Such an exercise has not been undertaken by the learned assessing officer but merely basing on the figures reflected in the balance sheet which was prepared in accordance with the RBI guidelines, learned assessing officer reached a conclusion that there was an escapement of income due to the preparation of the balance sheet in a particular way, as prescribed by the RBI.

36. If we appreciate the facts of this case in the light of the decision of the Hon'ble Apex Court in *UCO Bank vs. CIT 240 ITR 355 (SC)* it is clear that since the assessee has been maintaining its accounts on mercantile system, they are entitled to show his real income by taking into account market value of such investments in arriving at real taxable income. All the aspects argued by the Ld. DR were considered by the Hon'ble Apex Court in the case of *UCO Bank vs. CIT 240 ITR 355 (SC)* and were held in favour of the assessee. The decision in *Southern technologies Ltd (supra)* has no application to the facts of the case.

37. There is consistency of the facts on this aspect quite for a long time and all possible arguments have come before the adjudicatory authorities. On a careful consideration of the matter in the light of the submissions on either side, we are of the considered opinion that the question is now fully covered by the orders of the Tribunal in assessee's own case for the earlier years, and while respectfully following the same, we hold the issue in favour of the assessee.

13. Respectfully following the same, Ground No. 2 and 7 are dismissed.

14. Ground No. 3 pertains to disallowance of inter office adjustment.

15. Facts, in brief, are that the amount shown under "Inter Office adjustment account" appearing in the liability side of the balance sheet pertains to outstanding entries among the branches, controlling offices and head office within the bank which are reconciled regularly on an ongoing basis. As such, these entries are pending for matching /settlement within the bank itself, and so the bank cannot earn any revenue from the adjustment of entries itself inter se branches. Even in the CBS environment, the amounts remain outstanding in the above heads on the particulars day which are reconciled/ settled subsequently on an ongoing basis.

16. Both the rival representatives concurred that this issue is squarely covered in favour of the assessee and against the Revenue by the order of the co-ordinate bench in various A.Ys.

17. After considering the facts and circumstances, we find that issue stands settled in favour of the assessee and against the Revenue by the decision of the co-ordinate bench in A.Ys 2005-06 to AY 2010-11. Respectfully following the same, we dismiss Ground No. 3 of the Revenue.

18. Ground No. 4 pertains to deletion of addition of Rs. 84,55,68,875/- made u/s 14A r.w.r 8D of the Rules.

19. During the year under consideration, exempt income was earned by the assessee. It is submitted that Section 14A provides that any expenditure in relation to income not forming part of total income has to be disallowed. Disallowance of expenditure u/s. 14A can be made only when there is connection between the expenditure incurred and the income exempt. If the expenditure is incurred with a view to earn the taxable income then it can be said that dominant and immediate connection exists between the expenditure incurred and the taxable

income and consequently, no disallowance u/s 14A can be made even where some tax-free income is received incidentally.

20. It is submitted that the Bank has not incurred any interest expenditure in earning the aforesaid exempted income as the non-interest bearing funds are more than sufficient to make the investments for earning the exempted income.

21. Both the rival representatives concurred that this issue is a recurring one and is squarely covered in favour of the assessee and against the Revenue by the order of the Delhi High Court in assessee's own case in various A.Ys. After considering the facts and circumstances, we find that issue stands settled in favour of the assessee and against the Revenue by the orders of the Hon'ble High Court of Delhi in ITA 194/2024 dated 09.12.2024 ; ITA 194/2024 dated 06.12.2024; ITA 193/2024 dated 06.12.2024. The Hon'ble High Court of Delhi has followed the apex Court's decision in *South Indian Bank Ltd. vs. CIT* (2021) 438 ITR 1. Respectfully following the same, we dismiss Ground No. 4 of the Revenue.

22. Ground No. 5 pertains to depreciation on Goodwill.

23. During the FY 2002-03, erstwhile Nedungadi Bank Ltd was merged with this Bank and excess of liabilities over assets of ENBL to the tune of Rs.49.76 crore was shown as goodwill in the books of the assessee bank. Accordingly, depreciation u/s 32(1) r.w.s 2(11) treating Goodwill as "Intangible Asset".

24. It is the say of the ld. counsel for the assessee that the amount incurred by the assessee was nothing but the cost for the acquisition of the business and commercial rights in relation to bank's business particularly in South India. The assessee is entitled to claim depreciation @ 25% on the block of intangible assets to acquired commercial rights under the scheme of amalgamation of Nedungadi Bank Ltd.

25. The ld. counsel for the assessee contended that this is a recurring issue and is covered in favour of the Bank by the orders of the Hon'ble Delhi High Court.

26. The ld. DR fairly conceded to the same.

27. We have heard the rival submissions and have perused the relevant material on record. We find that this issue is squarely covered in favour

of the assessee and against the Revenue by the decision of Delhi High Court given in assessee's own case in ITA 194/2024 dated 09.12.2024 and ITA 196/2024. Respectfully following the same, Ground No. 5 is dismissed.

28. Ground No. 6 pertains to deduction of Rs. 35,78,00,000/- of an amount credited to PNB Employees Pension Fund u/s 43B of the Act.

29. The assessee is required to pay 10% of the employee's salary as ordinary annual contribution. The assessee has contributed the said amount aggregating to Rs.35.78 crore on this account. The other part of the contribution is based on the actuarial valuation. In terms of actuarial valuation and in accordance with Accounting Standard (AS) 15 (Revised) issued by ICAI, additional contribution amounting to Rs.35.78 Crore was made.

30. It is the say of the ld. counsel for the assessee that this is not an ordinary annual contribution but it is a provision towards aforesaid pension liability of Rs 35.78 crore. Since AS-15 (Revised) is required to be complied mandatorily; the bank does not/cannot violate the provisions of AS-15 (Revised). The provision of Rs 35.78 Crore is an

allowable expenditure being incurred wholly and exclusively by the purpose of business on account of commercial expediency and compliance to AS-15 (Revised), subject to section 43B. The requirement of section 43B has been fully met out by the bank. Contribution to pension fund by the bank is a statutory payment backed by a notification of Central Government.

31. The ld. DR fairly conceded to the facts narrated.

32. We find that this issue is covered in favour of the assessee by the order of the Hon'ble Delhi High Court in assessee's own case in ITA No. 194/2024 order dated 09.12.2024. Respectfully following the same, we hold that the contribution had actually been paid by the assessee and it was a normal business expense. Ground No. 6 is dismissed.

33. Ground No. 8 pertains to deduction u/s 36(1)(viii) of the Act. It is submitted that the bank is granting the long term advances towards eligible business i.e. industrial Development or Agricultural Development or Development of infrastructure facility in India or Construction or purchases of houses in India for residential purposes and

therefore, the bank is entitled for the deduction under section 36(1) (viii) of the Income Tax Act.

34. The ld AR submitted that the assessee bank had during the year transferred a sum of Rs.251.70 crore to Revenue and Other Reserves out of profits and maintained thereafter without being withdrawn. Hence, compliance of condition mentioned in section 36(1)(viii) of the Act has been fulfilled. The assessee Bank has confined its claim by taking income from the head "Income from Business and Profession" only and had not considered the "Income from House Property" and "Income from other sources".

35. It is the say of the ld. counsel for the assessee that the assessee draws its Profit & Loss Account and Balance Sheet as per format prescribed under Banking Regulation Act. As per the said format the "other income", other than interest, is disclosed. This does not mean that the said item cannot be included in computing the profits derived from eligible business since these incomes are also derived in the course of carrying on business. Financial corporation engaged in providing long-term finance for development of infrastructure facility in India has also

become eligible assessee and for computing deduction under section 36(1)(viii) of the Act.

36. Both the rival representatives reiterated what has been stated before the lower authorities.

37. We have heard the rival submissions and have perused the relevant material on record. We find that on this issue the ITAT in its decision for AY 2009-10 in ITA 4722/Del/2022 dated 09.01.2019 had allowed the claim u/s 36(1)(viii) but had remanded the matter for quantifying the claim u/s 36(1)(viii) of the Act. The Hon'ble High Court confirmed the direction of the ITAT by its order in ITA No. 196/2024 wherein the Hon'ble Jurisdictional High Court held that the Revenue cannot be aggrieved by the decision of the ITAT in this regard and dismissed the appeal of the Revenue. Respectfully following the same, we allow the claim u/s 36(1)(viii) with a direction to the AO to quantify the claim as per the directions of the CIT(A). Accordingly, the Ground No. 8 is partly allowed.

38. In the result, the appeal of the Revenue in ITA No. 2948/DEL/2024 is partly allowed.

The order is pronounced in the open court on 04.07.2025.

Sd/-

[MADHUMITA ROY]
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 04th JULY, 2025.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	
3.	<i>Date on which the typed draft Tribunal Order is placed before the other Member</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial)</i>	
11.	<i>The date on which the file goes for xerox</i>	
12.	<i>The date on which the file goes for endorsement</i>	
13.	<i>The date on which the file goes to the Superintendent for checking</i>	
14.	<i>The date on which the file goes to the Assistant Registrar for signature on the Tribunal order</i>	
15.	<i>Date on which the file goes to the dispatch section</i>	
16.	<i>Date of Dispatch of the Order</i>	