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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2284 OF 2013

The Commissioner of Income Tax-V ..Appellant
Versus
Thane Janata Sahakari Bank Ltd. ..Respondent

....

Mr. Tejveer Singh for the Appellant.
Mr. P. J. Pardiwalla, Senior Counsel, a/w Ms. Aarti Sathe & Mr. Kalpesh Turalkar for the Respondent.

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CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 25TH APRIL, 2016

P.C.:

1. This Appeal under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order dated 31st January, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2007-08.

2. The Revenue has urged the following question for our consideration :-

> *"(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in allowing the change of method of accounting followed by the assessee regularly till A.Y. 2006-07, in respect of valuation of Govt. Securities held*

> *till Maturity (HTM) and available for sale (AFS) from 'cost' to 'cost or market whichever is less' for the first time disregarding the principle of consistency, having the impact of lowering of taxable income by Rs.19,11,97,856/-?"*

3. Mr. Tejveer Singh, the learned counsel appearing for the Revenue very fairly states that the question as raised stands concluded against the Revenue and in favour of the respondent-assessee by the decision of this Court in ***CIT vs. Union Bank of India (Income Tax Appeal No.1977 of 2013)*** dated 8^{th} February, 2016 which in turn followed the earlier decision of this Court in ***CIT vs. HDFC Bank Ltd. 368 ITR 377***.

4. However, the only distinction which is canvassed by Mr. Tejveer Singh is that in the facts of the present case till the subject assessment year the assessee was valuing its securities 'at cost'. Thus it was for the first time that the respondent-assessee in violation of the principle of consistency has sought to value its stock of securities 'at cost' or 'market value' whichever is less. Therefore on the principle of consistency, the respondent-assessee should not be allowed to change its method of valuing its stock of security. The aforesaid distinction sought to be made by Mr. Tejveer Singh is answered by the decision of this Court in ***Melmould Corporation vs. CIT 202 ITR 789.*** This Court in Melmould Corporation (supra) has held that it is an accepted principle of

accountancy that stock is to be valued at cost or market price, whichever is lower. The Court observed that irrespective of the method adopted for valuation in the earlier years, the assessee has the option to change the method of valuation of the closing stock at cost or market price, whichever is lower. Subject of course to change being bonafide and followed regularly thereafter. We are informed that the respondent-assessee has from the subject assessment year onwards been consistently valuing its stock of securities 'at cost' or 'market price' whichever is lower.

5. In the above view, as the change brought about in the valuation of closing stock is bonafide and is in accordance with the normally accepted accounting practice, there is no reason why the same should not be permitted to the respondent-assessee. In the above view, question as framed for our consideration does not give rise to any substantial question of law as the issue stands concluded by the decisions of this Court referred to hereinabove.

6. Therefore the Appeal is dismissed. No order as to costs.

(A. K. MENON, J.) **(M. S. SANKLECHA, J.)**

Wadhwa