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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 33/2017

PRINCIPAL COMMISSIONER OF INCOME-TAX - 7..... Appellant

Through : Sh. Dileep Shivpuri, Sr. Standing Counsel with Sh. Sanjay Kumar, Jr, Standing Counsel and Sh. Vikrant A. Maheshwari, Advocate.

versus

M/S ORIENTAL BANK OF COMMERCE ..... Respondent

Through : None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 14.03.2017

The Revenue is aggrieved by the order of the Income Tax Appellate Tribunal (ITAT) which has the effect of upholding the deletion of penalty imposed upon the assessee. The Assessing Officer (AO) had rejected the assessee's contention with respect to treatment of its assets which was changed from the classification – Available for Sale (AFS) to Held to Maturity (HTM). This was done pursuant to the Reserve Bank of India's (RBI) circular dated 02.09.2004. Resultantly, the penalty was imposed.

The ITAT upheld the deletion of penalty based upon the judgment of this Court for AY 2007-08, (*Pr. Commissioner of Income Tax v. Oriental Bank of Commerce*, ITA 306/2016, decided on

11.05.2016).

This Court has gone through the order dated 11.05.2016 which reveals that the issue with regard to treatment of such assets/stock-in-trade was contentious. This persuaded the Court to decide in favour of the assessee, unpersuaded by the decision of the Karnataka High Court in *Karnataka Bank Ltd. v. ACIT* 2013 (356) ITR 549.

Since the ITAT has followed the decision of this Court, in the present instance, no question of law arises. The appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 14, 2017/ajk