

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-200-2018 (O&M)

Date of Decision: 8.10.2018

The Principal Commissioner of Income Tax-3, Ludhiana

....Appellant.

Versus

M/s The Ludhiana Central Co-Operative Bank Ltd., Ludhiana

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AVNEESH JHINGAN.**

PRESENT: Mr. Rajesh Katoch, Sr. Standing Counsel for the appellant.

AJAY KUMAR MITTAL, J.

1. This appeal has been preferred by the revenue under Section 260A of the Income Tax Act, 1961 (in short “the Act”) against the order dated 21.9.2017 (Annexure-4) passed by the Income Tax Appellate Tribunal, Chandigarh Benches 'A', Chandigarh (hereinafter referred to as “the Tribunal”) in ITA No. 749/CHD/2017, for the assessment year 2010-11, claiming the following substantial questions of law:-

- (i) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT, Chandigarh is justified in deleting the addition of ₹ 2,67,88,000/- made by the Assessing Officer on account of interest accrued on non-performing assets by

ignoring the decision of the Hon'ble Supreme Court in the case of State Bank of Travancore 158 ITR 102?

- (ii) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT, Chandigarh is justified in deleting the addition of ₹ 2,67,88,000/- made by the Assessing Officer on account of interest accrued on non performing assets ignoring the fact that the scope of Section 43D of the Income Tax Act was broadened for co-operative society by Finance Bill 2017?
- (iii) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT, Chandigarh is justified in deleting the addition of ₹ 2,67,88,000/- made by the Assessing Officer on account of interest accrued on non performing assets by accepting the assessee's hybrid system of accounting one for sticky loans and another for non-sticky loans contrary to the provisions of Section 145 of the Income Tax Act?

2. Put shortly, the facts necessary for adjudication of the instant appeal as narrated therein may be noticed. The assessee filed its return of income on 1.10.2010 declaring net income at ₹ 4,50,16,970/- claiming refund of ₹ 2,25,840/- which was revised on the same date by declaring same income but claiming refund of ₹ 2,90,420/- as the claim of TDS was enhanced from ₹ 12,94,260/- to ₹ 13,58,260/-. The said return was again

revised on 30.3.2012 by declaring total income at ₹ 4,45,26,050/- claiming refund of ₹ 4,96,860/- as the TDS was shown at ₹ 14,10,992/-. The assessment was completed under Section 143(3) of the Act by the Assessing Officer vide order dated 15.2.2013 (Annexure-1) at an income of ₹ 7,13,14,050/- as against the returned income of ₹ 4,45,26,050/- by making an addition of ₹ 2,67,88,000/- on account of non-crediting of interest on Non-Performing Assets (NPA) in the Profit and Loss account by the assessee. The case of the assessee of the relevant year was reopened on the ground that the assessee had not made any disallowance out of interest payment to other cooperative societies under Section 40(a)(ia) of the Act as it had failed to deduct tax on such interest payment. The re-assessment was completed by the Assessing Officer under Section 143(3) read with Section 147 of the Act vide order dated 25.7.2014 (Annexure-2) at ₹ 14,03,08,310/-. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [for brevity “the CIT(A)”]. The CIT (A) vide order dated 24.2.2017 (Annexure-3) deleted the addition of ₹ 2,67,88,000/- made by the Assessing Officer. Against the order, Annexure-3, the revenue filed an appeal before the Tribunal who vide order dated 21.9.2017 (Annexure-4) dismissed the appeal of the revenue upholding the deletion made by the CIT (A). Hence, the present appeal by the revenue.

3. It could not be disputed by the learned counsel for the revenue that the similar issues came up before this Court in **ITA-349-2017 (The Principal Commissioner of Income Tax-3, Ludhiana v. The Ludhiana Central Co-Op. Bank Ltd., Ludhiana)** and other connected appeals in the case of the respondent-assessee as well and this Court vide order dated

4. Accordingly, the present appeal is also dismissed.

(AJAY KUMAR MITTAL)
JUDGE

October 8, 2018
gbs

(AVNEESH JHINGAN)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No