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

\+ ITA 509/2018

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

Through: Mr. Ruchir Bhatia, Advocate

versus

M/S PUNJAB & SIND BANK ..... Respondent

Through: Mr. Salil Kapor, Mr. Sumit Lalchandani & Ms. Ananya Kapoor, Advocates

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% **10.09.2018**

This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 (‘Act’) impugns the order dated 21.11.2017 passed by the Income Tax Appellate Tribunal (‘Tribunal’) in the case of Punjab & Sind Bank.

2. The impugned order quashes the re-assessment proceedings initiated by the Assessing Officer under Section 147 read with Section 148 of the Act for the assessment year 2006-07 on the ground that the assessee had made full and true disclosure of material facts regarding the change of accounting method in respect of Non-Performing Assets (‘NPAs’). Hence, the jurisdictional pre-condition stipulated in the first proviso to Section 147 of the Act which requires failure to disclose fully and truly all material facts necessary for assessment

were not satisfied.

3. It is an accepted and admitted position that the return filed by the respondent/assessee for the assessment year 2006-07 declaring loss of Rs.14.53 crores, was made subject-matter of scrutiny assessment under Section 143(3) of the Act vide order dated 23.12.2010. Loss of Rs.10.12 lacs was allowed to be carried forward.

4. The reasons to believe recorded by the Assessing Officer were predicated on two grounds. In the present appeal, we are concerned with the first ground, i.e., change in method of accounting in relation to NPAs. As per the earlier method, the assessee was accounting for payments received first towards interest and thereafter towards the principal amount. As per the new method adopted by the respondent/assessee from this assessment year, payments received were accounted for first towards the principal amount and then towards the interest. The concurrent findings of both the Commissioner of Income-Tax (Appeals) and the Tribunal is that this new method of accounting was duly notified and recorded in para 7.3 of schedule 17 of the audited accounts for the assessment year 2006-2007. This factual position is not disputed or factually challenged. Moreover, the Assessing Officer had noticed this objection but did not dwell and specifically examine and answer the same in the re-assessment order. There was quietus on the said aspect by the Assessing Officer, who had impliedly admitted the factual position of full and true disclosure of material facts.

This is not a case where inference or interpretation on the basis of the note was to be drawn. The new and amended method of accounting for NPAs was declared and notified in clear words. We therefore do not see any reason and ground to interfere with the finding on absence of failure to disclose full and true material facts.

5. The second reason for re-opening, which is not pressed was provision for fraud cases of Rs.2.22 crores treated as expenditure in the profit and loss account. This claim was accepted during the course of original assessment proceedings. The Commissioner of Income Tax (Appeals) had, on the said aspect, observed that a specific query was raised by the Assessing Officer vide item No.16 of questionnaire dated 26.5.2008, to which reply dated 20.6.2008 was furnished by the respondent/assessee. The Commissioner of Income Tax(Appeals) had accordingly held that the ground would not be a valid and good reason to reopen the concluded assessment. The Revenue has accepted the decision of the Commissioner of Income Tax(Appeals) on the second aspect and did not challenge this finding.

6. In view of the aforesaid, we do not find any merit in the appeal and the same is dismissed in *limine*, with no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

SEPTEMBER 10, 2018/tp