IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-487-2018 (O&M)

Date of Decision: 27.3.2019

The Principal Commissioner of Income Tax-2, Chandigarh
....Appellant.
Versus

M/s The Jalandhar Central Co-op. Bank Ltd., Jalandhar

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. Vivek Sethi, Sr. Standing Counsel for the appellant.

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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 8.3.2018 (Annexure A-3) passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (hereinafter referred to as "the Tribunal") in ITA No. 509(ASR)/2017, for the assessment year 2014-15, claiming the following substantial questions of law:-

i) Whether on the facts and in the circumstances of the case, the Ld. ITAT was correct in ignoring the fact that section 43D of the Income-tax Act, 1961 would not apply to a Co-operative Bank?

ii) Whether on the facts and in the circumstances of the case, the Ld. ITAT was justified in law in holding that section 45Q of RBI Act, 1934 is applicable in the case of the assessee, when Section 45H of RBI Act, 1934 excludes its application to cooperative banks?

iii) Whether on the facts and in the circumstances of the case, the Ld. ITAT has erred in law in confirming the decision of Ld. CIT(A) who had wrongly relied upon the finding of the Hon'ble Delhi High Court in the case of M/s Vasisth Chay Vyapar Ltd. [ITA No.552, 565 of 2005, ITA No. 1191 of 2007, ITA No. 139, 466, 537 of 2008 and ITA No. 408 of 2003 date of decision 29.11.2010] which is a Non-Banking Financial Corporation, whereas the assessee under consideration is a Co-operative Society?

iv) Whether on the facts and in the circumstances of the case, the Ld. ITAT has erred in confirming the decision of Ld. CIT(A) who deleted the addition of ₹ 2,14,85,165/- made by the AO on account of interest accrued on non performing assets by ignoring the decision of Hon'ble Supreme Court in the case of State Bank of Travancore (158 ITR 102)?

2. A few facts necessary for adjudication of the instant appeal as narrated therein may be noticed. The assessee filed its return of income on 30.11.2014 declaring the income at ₹ 5,34,54,610/-. The Assessing Officer

vide order dated 30.11.2016 (Annexure A-1) framed the assessment under Section 143(3) of the Act at a total income of ₹ 7,49,41,780/- after making an addition of ₹ 2,14,85,165/- on account of interest due on Non Performing Assets. Feeling aggrieved by the order, Annexure A-1, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [for brevity "the CIT(A)"]. The CIT(A) vide order dated 8.6.2017 (Annexure A-2) allowed the appeal and deleted the addition of ₹ 2,14,85,165/-. Against the order, Annexure A-2, the revenue filed an appeal before the Tribunal. The Tribunal vide order dated 8.3.2018 (Annexure A-3) upheld the order of the CIT(A) and dismissed the appeal of the revenue. Hence, the present appeal.

3. We have heard learned counsel for the revenue.

4. It could not be disputed by the learned counsel for the revenue that the aforesaid matter is covered by the order of this Court in **ITA-349-2017 (The Principal Commissioner of Income Tax-3, Ludhiana v. The Ludhiana Central Co-Op. Bank Ltd., Ludhiana) along with other connected appeals decided on 24.9.2018**, wherein the appeals filed by the revenue were dismissed.

5. Accordingly, the present appeal is also dismissed in terms of ITA-349-2017.

(AJAY KUMAR MITTAL)
JUDGE

March 27, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**