IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1138 OF 2018

Pr. Commissioner of Income Tax – 1 ….Appellant

V/s.

Zorastrian Co.operative Bank Ltd. …Respondent

Mr. Suresh Kumar for Appellant.
None for Respondent.

CORAM : K.R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED : 6th DECEMBER 2023

P.C. :

1. Appellant is impugning an order passed by the Income Tax Appellate Tribunal (ITAT) on 31st May 2017 for Assessment Year 2010-11 by which order the ITAT was pleased to set aside an order dated 24th March 2015 passed by the Commissioner of Income Tax (CIT).

2. Respondent/assessee, a Co-operative Bank filed its return of income for Assessment Year 2010-11 and the assessment was completed under Section 143(3) of the Income Tax Act, 1961 (the Act). Later the CIT noticed that assessee had debited an amount of Rs.4,68,65,000/- on account of loss on shifting of securities from the category “Available for sale” to the category “Held to maturity”. The CIT accordingly issued a notice under Section 263 of the Act and passed an order setting aside the loss that has arisen to assessee from re-categorization of securities is a notional loss

not arising from any actual transaction of purchase and sale and therefore not allowable. The CIT directed the Assessing Officer (A.O.) to frame the assessment order afresh taking into account the observations made in the order. Against this order of the CIT, assessee preferred an appeal. The appeal came to be allowed by the ITAT, relying upon a judgment of this court in ***Commissioner of Income Tax – 2, Mumbai vs. HDFC Bank Ltd.***[1] where the High Court has held that the claim of assessee for the loss on the transfer of securities from the category "Available for Sale" to "Held to Maturity" was an allowable deduction.

3. In the circumstances, having considered the judgment of this court in *Commissioner of Income Tax – 2, Mumbai vs. HDFC Bank Ltd.* (supra) we find no reason to interfere.

4. Appeal dismissed.

(DR. NEELA GOKHALE, J.) **(K.R. SHRIRAM, J.)**

1 368 ITR 377 (Bom)