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

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Date of Decision : 24.04.2025

+ **ITA 111/2025**

PR. COMMISSIONER OF INCOME TAX -7, DELHI

.....Appellant

Through: Mr Puneet Rai, SSC, Mr Ashvini
Kumar and Mr Rishabh Nangia, SCs
and Mr Nikhil Jain, Advocate.

versus

PUNJAB AND SIND BANK

.....Respondent

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

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (ORAL)

CM APPL. 23798/2025 (condonation of delay in refiling)

1. For the reasons stated in the application, the delay of 152 days in re-filing the above captioned appeal is condoned.

2. The application stands disposed of.

CM APPL. 23797/2025 (condonation of delay in filing)

3. For the reasons stated in the application, the delay of 115 days in filing the above captioned appeal is condoned.



4. The application stands disposed of.

CM APPL. 23796/2025 (Exemption)

5. Exemption is allowed, subject to all just exceptions.

6. The application stands disposed of.

ITA 111/2025

7. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning an order dated 07.02.2024 [**impugned order**] passed by the learned Income Tax Appellate Tribunal [**ITAT**] in ITA No.8688/Del/2019 in respect of the Assessment Year [**AY**] 2016-17.

8. The aforementioned appeal [ITA No.8688/Del/2019] was preferred by the Revenue against the order passed by the Commissioner of Income Tax (Appeals)-7, New Delhi [**CIT(A)**], in an appeal preferred by the Assessee against the assessment order dated 16.12.2018 passed by the Assessing Officer [**AO**].

9. Essentially, the controversy relates to the additions made by the AO in regard to the (i) the increase and decrease in the value of the securities held by the Assessee; (ii) disallowance of contributions to the pension fund; and (iii) disallowance under Section 14A of the Act.

10. The learned ITAT, following its earlier decision, rejected the appeal preferred by the Revenue.

11. In the aforesaid context, the Revenue has projected the following questions of law for consideration of this court: -

“A. Whether in the facts and circumstances of the case, Hon’ble ITAT as well as the Ld. CIT[A] erred in law deleting the addition of Rs.6,03,46,364/- made by the AO in respect of depreciation of securities as the



assessee contention that depreciation is claimed in accordance with the guidelines of the RBI is not justified and the fact remains that investments have not been shown in the books as “stock in trade” and its resultant profits on sale are not enhanced by the value of depreciation in subsequent years when these investments are actually sold?

B. Whether in the facts and circumstances of the case, the Hon’ble ITAT as well as the Ld. CIT[A] has erred in deleting the disallowance of Rs.155,86,40,020/- made by the AO out of the contribution to Punjab & Sind Bank Employee’s Pension Fund Trust since the above contribution were neither the ordinary annual contribution nor the initial contribution of the pension fund?

C. Whether in the facts and circumstances of the case, the Hon’ble ITAT as well as the Ld. CIT[A] has erred in deleting the disallowance of Rs.13,04,85,000/- made by the AO u/s 14A read with under Rule 8D(2)(ii) and 8D(2)(iii), as the assessee had made investment and the provisions of section 14A are applicable in the case?”

12. Undisputedly, the aforesaid questions are covered by the earlier decision of this court in the Assessee’s own case being ***Pr. Commissioner of Income Tax-7, Delhi v. M/s Punjab and Sindh Bank: Neutral Citation No.: 2023:DHC:7555-DB.*** The said order passed by this court is set out below:-

“5. This appeal concerns Assessment Year (AY) 2013-14.

6. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 12.07.2021, passed by the Income Tax Appellate Tribunal [in short, “Tribunal”] in ITA No. 781/Del/2018 and ITA No. 1208/Del/2018.

7. A perusal of the appeal shows that the following questions of law have been proposed by the appellant/revenue:

“A. *Whether in the facts and circumstances*



of the case, Hon'ble ITAT as well as the Ld. CIT[A] erred in law deleting the addition of Rs. 17,63,07,641/- made by the AO in respect of depreciation of securities as the assessee contention that depreciation is claimed in accordance with the guidelines of the RBI is not justified and the fact remains that investments have not been shown in the books as "stock in trade" and its resultant profits on sale are not enhanced by the value of depreciation in subsequent years when these investments are actually sold?

B. Whether in the facts and circumstances of the case, the Hon'ble ITAT as well as the Ld. CIT[A] has erred in deleting the disallowance of Rs. 187,35,15,770/- made by the AO out of the contribution to Punjab & Sind Bank Employee's Pension Fund Trust since the above contribution were neither the ordinary annual contribution nor the initial contribution of the pension fund?

C. Whether in the facts and circumstances of the case, the Hon'ble ITAT as well as the Ld. CIT[A] has erred in deleting the disallowance of Rs. 13,63,83,000/- made by the AO u/s 14A read with under Rule 8D(2)(ii) and 8D(2)(iii), as the assessee had made investment and the provisions of section 14A are applicable in the case?"

8. Mr Puneet Rai, learned senior standing counsel, who appears on behalf of appellant/revenue, fairly informs us that insofar as proposed questions A&B are concerned, they are covered by the decision of the coordinate bench of this court dated 18.09.2017, passed in ITA No. 737/2017, titled ***Principal Commissioner of Income Tax-07 vs Punjab & Sind Bank.***

9. Likewise, insofar as proposed question 'C' is concerned, Mr Rai informs us that it is covered by the decision of another coordinate bench of this court dated 16.10.2019, passed in ITA No. 904/2019 &



906/2019, titled *Pr. Commissioner of Income Tax-7 vs M/s Punjab and Sind Bank*.

10. We may note that insofar as the proposed question 'C' is concerned, it is also covered by the decision dated 09.09.2021, rendered by the Supreme Court in Civil Appeal no. 9606 of 2011, titled *South Indian Bank vs. Commissioner of Income Tax*.

10.1 The relevant observation made in paragraph 25 of the above-mentioned judgement is extracted hereafter:

“Proceeding now to another aspect, it is seen that the Central Board of Direct Taxes (CBDT) had issued the Circular no. 18 of 2015 dated 2-11-2015, which had analyzed and then explained that all shares and securities held by a bank which are not bought to maintain Statutory Liquidity Ratio (SLR) are its stock-in-trade and not investments and income arising out of those is attributable, to business of banking. This Circular came to be issued in the aftermath of CIT v. Nawanshahar Central Co-operative Bank Ltd. [2007] 160 Taxman 48/289 ITR 6 (SC), wherein this Court had held that investments made by a banking concern is part of their banking business. Hence the income earned through such investments would fall under the head Profits and Gains of business. The Punjab and Haryana High Court, in the case of Pr CIT v. State Bank of Patiala [2017] 88 taxmann.com 667/393 ITR 476 (Punj. & Har.), while advertising to the CBDT Circular, concluded correctly that shares and securities held by a bank are stock-in-trade, and all income received on such shares and securities must be considered to be business income. That is why section 14A would not be attracted to such income”.

11. We may note that there appears to be no dispute that subject shares were held as stock in trade by the respondent/assessee.



11.1 Therefore, in any event, recourse to Section 14A could not have been taken which is concerned with investments.

12. Given the aforesaid circumstances, we are of the view that no substantial question of law arises for our consideration.

13. Since we are informed that a Special Leave Petition (SLP) against the aforementioned ITAs has been preferred, the parties will abide by the final decision in that SLP.

14. Accordingly, the appeal is closed.

15. Parties will act based on the digitally signed copy of the order.”

13. Undisputedly, the aforesaid decision covers the question of law as projected by the Revenue in the present appeal. Accordingly, no substantial question of law arises for consideration of this court.

14. In view of the above, the appeal is dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 24, 2025

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Click here to check corrigendum, if any