IN THE INCOME TAX APPELLATE TRIBUNAL "I" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No. 5514/Mum/2001

(Assessment Year 1998-99)

Barclays Bank PLC, 21/23 Maker Chambers VI, 2nd Floor, Nariman Point, Mumbai – 400 021	Vs.	Additional Commissioner of Income Tax, Special Range 32, Aayakar Bhawan, Mumbai - 400 020
(**Assessee**)	:	(**Revenue**)
PAN NO. AAACB 4876 G		

ITA No. 5199/Mum/2001

(Assessment Year 1998-99)

Additional Commissioner of Income Tax, Special Range 32, Aayakar Bhawan, Mumbai - 400 020	Vs.	Barclays Bank PLC, 21/23 Maker Chambers VI, Nariman Point, Mumbai – 400021
(**Revenue**)	:	(**Assessee**)
PAN NO. AAACB 4876 G		

CO. No. 232/Mum/2013
(Arising out of ITA No. 5514/Mum/2001)

(Assessment Year 1998-99)

Director of Income-tax (IT)-II, Room No. 007, Gr. Floor Scindia House N.M. Road, Ballard Estate, Mumbai 400 038	Vs.	Barclays Bank PLC, 8th Floor, 801 to 808, Ceejay House, Dr. Annie Besant Road, Worli, Mumbai – 400081
(**Revenue**)	:	(**Assessee**)
PAN NO. AAACB 4876 G		

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ITA No. 3279/Mum/2004

(Assessment Year 1999-2000)

Barclays Bank PLC, 21/23 Maker Chambers VI, 2nd Floor, Nariman Point, Mumbai – 400021	Vs.	DDIT (IT)-1(1), First Floor, Scindia House, Ballard Pier, Mumbai-400 038
(**Assessee**)	:	(**Revenue**)
PAN NO. AAACB 4876G		

ITA No. 3926/Mum/2004

(Assessment Year 1999-2000)

Dy. Director of Income-tax (IT)-1(1), Room No. 117, Scindia House Mumbai 400 001	Vs.	Barclays Bank PLC, 21/23 Maker Chambers VI, Nariman Point, Mumbai – 400021
(**Revenue**)	:	(**Assessee**)
PAN NO. AAACB 4876 G		

CO. No. 279/Mum/2013

(Arising out of ITA No. 3279/Mum/2004)

(Assessment Year 1999-2000)

Director of Income-tax (IT)-II, Room No. 007, Gr. Floor Scindia House N.M. Road, Ballard Estate, Mumbai 400 038	Vs.	Barclays Bank PLC, 8th Floor, 801 to 808, Ceejay House, Dr. Annie Besant Road, Worli, Mumbai – 400081
(**Revenue**)	:	(**Assessee**)
PAN NO. AAACB 4876 G		

&

ITA No. 3280/Mum/2004
(Assessment Year 2000-2001)

Barclays Bank PLC, 21/23 Maker Chambers VI, 2nd Floor, Nariman Point, Mumbai – 400021	Vs.	Joint Director of Income-tax (IT)-1(1), First Floor Scindia House, Ballard PIER, Mumbai 400 038
(**Assessee**)	:	(**Revenue**)
PAN NO. AAACB 4876 G		

ITA No. 3927/Mum/2004
(Assessment Year 2000-2001)

Dy. Director of Income-tax (IT)-1(1), Room No. 117, Scindia House Mumbai 400 001	Vs.	Barclays Bank PLC, 21/23 Maker Chambers VI, Nariman Point, Mumbai – 400021
(**Revenue**)	:	(**Assessee**)
PAN NO. AAACB 4876 G		

CO. No. 280/Mum/2013
(Arising out of ITA No. 3280/Mum/2004)

(Assessment Year 2000-2001)

Director of Income-tax (IT)-II, Room No. 007, Gr. Floor Scindia House N.M. Road, Ballard Estate, Mumbai 400 038	Vs.	Barclays Bank PLC, 8th Floor, 801 to 808, Ceejay House, Dr. Annie Besant Road, Worli, Mumbai – 400081
(**Appellant**)	:	(**Respondent**)
PAN NO. AABCR 2657N		

Assessee by	:	Shri P.J. Pardiwala, Shri Madhur Agrawal & Shri Fenil Bhatt
Revenue by	:	Shri Krishna Kumar, Sr.- DR
(Appellant)		**(Respondent)**

Date of Hearing	:	23.04.2026
Date of Pronouncement	:	30.06.2026

O R D E R

Per Saktijit Dey, Vice President:

Captioned cross appeals and cross objections by the department, arise out of separate orders, passed by learned Commissioner of Income Tax (Appeals)-VII, Mumbai ('ld. CIT(A)' for short), for the assessment years ('A.Ys.' for short) 1998-99, 1999-2000 and 2000-01.

ITA No. 5514/Mum/2001 (Assessee's appeal for A.Y. 1998-99)

2. In ground no. 1, the assessee has challenged the taxability of interest received by the permanent establishment ('PE' for short) from Nostro account/overseas placement made with the head office and overseas branches as also with other overseas banks, amounting to Rs.6,68,50,601/-.

3. Briefly, the facts are, the assessee is a non-resident banking company incorporated in United Kingdom ('UK' for short) and has opened branches in India at Mumbai and New Delhi, which constitute assessee's PE in India. For the assessment year under dispute, the assessee had filed its return of income on 30.11.1998, declaring income of Rs.7,38,03,150/-. Subsequently, the assessee filed its return of income on 30.03.2000, declaring income of Rs.3,66,09,620/-.

4. In course of assessment proceedings, the Assessing Officer (A.O. for short) noticed that in the original return of income, the assessee had claimed the interest earned by the Indian branch amounting to Rs.2,81,48,207/- as not taxable in India. However, in the revised return of income, the assessee enhanced the figure to Rs.6,68,50,601/-. When confronted by the AO to justify its claim of exemption *qua* the interest shown, the assessee

submitted that the Indian branch and head office/overseas branches being single entity, the assessee cannot expect to earn profit from itself. Hence, the interest received by the Indian branch would not be taxable. Insofar as, the interest received from other overseas banks, the assessee submitted that the other overseas banks having not carried out any business in India, interest paid by them to the Indian branch is not taxable u/s.9(1)(v)(c) of the Act. The AO, however, was not convinced with the submissions of the assessee. He held that under the provision of India-UK Double Taxation Avoidance Agreement ('DTAA' for short), the PE and head office are treated as distinct entities. Hence, interest received by the branch from head office and other overseas branches is taxable. Without prejudice, he held that the interest income is otherwise taxable, not only u/s.9(1)(v)(c) of the Act, but also u/s.9(1)(i) of the Act. Accordingly, he brought to tax the entire interest received claimed as not taxable in India.

5. Though the assessee contested the addition before learned first appellate authority, however, it was unsuccessful.

6. Before us, learned counsel appearing for the assessee submitted that the Indian branch and head office/overseas branches cannot be treated as separate entities. He submitted, any payment either by the head office to the Indian branch or by the Indian branch to the head office has to be regarded as payment from self to self and would be governed by principle of mutuality. He submitted, it cannot be said that the assessee can earn profit from itself. Therefore, the interest received by the Indian branch from head office/overseas branches is not taxable in India. Insofar as, interest received from other overseas banks, learned counsel submitted such interest income cannot be brought to tax in India u/s. 9(1)(v)(c) of the Act, as the primary conditions of section 9(1)(v)(c) of the Act

are not fulfilled. He submitted, the overseas banks paying interest have not carried out any business in India. Hence, such income is not taxable at the hands of the assessee. In this regard, learned counsel relied upon the following decisions:

a) *DIT(IT) vs. Credit Agricole Indosuez* [2016] 69 taxmann.com 285 (Bom)

b) *Sumitomo Mitsui Banking. Corporation v/s DDIT*, [2012] 19 taxmann.com 364 (Mum.)

c) *Credit Agricole Indosuez vs. Jt. CIT* [2007] 14 SOT 246 (Mum)

d) *Assam Fronter Tea Co. Ltd. vs. ITO* [1994] 49 ITD 412 (Cal.)

7. Learned Departmental Representative ('ld. DR' for short) strongly relied upon the observations of the A.O. and ld. First appellate authority.

8. We have considered rival submissions and perused the materials on record. We have also applied our mind to the judicial precedents cited at the bar. Undisputedly, in the year under consideration, the assessee had received interest from Nostro account and overseas placements with its head office and overseas branches. That apart, the assessee had also received interest on a placement of funds/advances with other overseas banks (third party banks). The details of interest earned are as under:

1.	Rs.1,21,688/-	Nostro account with head office and overseas branches
2.	Rs.1,47,00,212/-	From placements of funds with head office and overseas branches
3.	Rs.6,68,50,601/-	From other overseas banks

9. Insofar as, interest earned from Nostro account/placements of funds with head office and overseas branches, it is the say of the assessee that such receipt, being a transaction between the selfsame entities, would be governed by principle of mutuality. Hence, cannot be regarded to be in the nature of income. We find substantial merit in the aforesaid

submissions of the assessee. Undisputedly, the Indian branch and head office cannot be regarded as distinct and separate entities for tax purpose under the domestic law. Of-course, under the treaty provision, applying the concept of PE, the Indian branch can constitute a distinct entity, but only for the limited purpose of attributing profit generated through PE. In cany case of the matter, the issue is no more *res integra* in view of the decision of Hon'ble Jurisdictional High Court in case of *Credit Agricole Indosuez* (supra), wherein the following substantial question of law came up for consideration:

> *(a) Whether on the facts and in the circumstances of the case and in law the Tribunal was justified in holding that interest payable by the Indian Permanent Establishment of the foreign bank to its HO and other overseas branches, is deductible in computing the total income?*

10. While answering the question, the Hon'ble Jurisdictional High Court after placing reliance upon some other judicial precedents including the decision of ITAT Special Bench in case of *Sumitomo Mitsui Banking. Corporation v/s DDIT* (supra) concluded as under:

> *7. Regarding question 5:*
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> *(a) Mr. Tejveer Singh, the learned counsel for the Revenue submitted that this question ought to be admitted as a similar issue has been admitted by this Court. In support Mr.Singh tenders the order in DIT v. Antwerp Diamond Bank hod. 2080 2012, dated 14-2-2013). The question on which the above appeal was admitted reads as under-*
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> *(a) Whether on the facts and in the circumstances of the case and in law the Tribunal was justified in holding that interest payable by the Indian Permanent Establishment of the foreign bank to its HO and other overseas branches, is deductible in computing the total income?*
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> *(b) Mr. Pardiwala the learned Senior counsel for the Respondent contests the submission on behalf of the Revenue and submits that in the present case the question as raised by the Revenue is not in respect of deducting the payment of interest to compute total income but with regard to the chargeability to tax of the interest received by the Indian Permanent Establishment (PE) from its Head Office in computing the total income. It is pointed out that the Indian PE and the head office are one and the same person. It is settled position that one cannot make a profit out of oneself as held by the Apex Court in Sir Kikabhai Premchand v. CIT [1953] 24 ITR 506. The impugned order of the Tribunal also places reliance upon the Special Bench decision in the case of Sumitomo Mitsul Banking Corpn. v. Dy. DIT [2012] 19 taxmann.com 364/136 ITD 66 (Mum.) (SB) to hold that man cannot make profit out of himself and therefore the interest received by the Assessee from it's own Head Office is not chargeable to tax.*
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> *(c) So far as the reliance by the Revenue on order dated 14 April 2013 of this Court admitting the appeal in Antwerp Diamond Bank N.V. (supra), is concerned, deduction on account of interest paid by the Indian PE to its Head office was in the specific context of Articles 7(2) and 7(3) of the Indo-Belgium DTAA. The case of Antwerp Diamond Bank N.V. (supra) before the Tribunal was a part*

of the Special Bench decision in Sumitomo Mitsui Banking Corpn. (supra) wherein at para 50, it is held as under:

"50. As regards the deduction of interest payable to the head office in the hands of Indian PE for the purpose of computing profits attributable to the said PE, there is no dispute that such deduction is not permissible under the Indian Income-tax Act (domestic law) being the payment made to self. Both the Indian PE and the foreign GE of which it is a part are not separate entities for the purpose of taxation under the domestic law and the same being one and the same entity recognized as one assessee under the domestic law, interest payable by Indian PE to foreign GE of which it is a part, cannot be treated as expenditure allowable as deduction being payment to self. This position which is well settled under the domestic law has not been disputed even by the learned representatives of the assessees during the course of hearing before us. They, however, have relied on the relevant tax treaties in support of the assessee's claim for deduction on account of interest payable to GE while computing the profits attributable to PE in India as per article 7(2) and 7(3) read with paragraph No.8 of the protocol.

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52. A combined reading of article 7(2) and 7(3) of the treaty and paragraph No. 8 of the protocol thus makes it clear that for the purpose of computing the profits attributable to the PE in India, the said PE is to be treated as a distinct and separate entity which is dealing wholly independently with the general enterprise of which it is a part and deduction has to be allowed for all the expenses which are incurred for the purpose of PE whether in India or elsewhere barring the amount paid by a permanent establishment to the head office of GE or any other offices thereof, inter alia, by way of interest on moneys lent to the permanent establishment except where the enterprise is a banking institution." (Emphasis supplied)

It would thus be noticed from the order of this Court dated 14 February 2013 admitting the Revenue's Appeal, in the case of Antwerp Diamond Bank N.V. (supra) arose from a different factual matrix viz, specific provision of DTAA allowing deduction and not under the regular provisions of Income-tax Act. Thus the fact that the Appeal in the case of Antwerp Diamond Bank N.V. (supra) is admitted would have no relevance for admitting the present appeal on the proposed Question No.5. It is also necessary to point out that the Tribunal in the impugned order has recorded the fact that the Respondent-Assessee has admitted before it that to bring about parity, it is not claiming any deduction of interest paid by it to its Head Office while computing the taxable income.

11. Thus, keeping in view the observations of the Hon'ble Jurisdictional High Court and ITAT (Special Bench) in the decisions referred to above, we hold that the interest income earned by the Indian branches on the Nostro account and the placements made with head office and overseas branches is not taxable in India.

12. Having held so, it is necessary to examine the issue relating to the taxability of interest earned of Rs.6,68,50,601/- from other overseas banks. While bringing to tax the aforesaid amount under the domestic law, the line of reasoning of the AO is that such income is taxable both under the general provision contained u/s.9(1)(i) as also the special

provision u/s. 9(1)(v)(c) of the Act. Of course, learned first appellate authority has observed that there is no need to apply the general provision, as the receipt is covered u/s.9(1)(v)(c) of the Act. Let us examine the aforesaid line of reasoning of learned first appellate authority on merits. Section 9(1)(v)(c) reads as under:

> *".....a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India."*

13. Thus, for better understanding the provision can be broken down as under:

i. Person has to be a non-resident,
ii. The interest is payable by the non-resident in respect of a debt incurred or money borrowed.
iii. The debt incurred or money borrowed must have been used for the purposes of the business or profession carried on by such person in India.

14. The expression "such person" in the concluding part of the provision is with reference to the non-resident who has incurred the debt or borrowed the money for use in business or profession carried out in India. In the facts of the present appeal, admittedly, the other overseas banks have paid interest to the Indian branches of the assessee for debt incurred or money borrowed. However, it is neither the case of the department nor the department has been able to establish at any point that non-resident banks have used the debt incurred or money borrowed for any business or profession carried out by them in India. Thus, in our considered view, the interest paid by the other overseas banks to the Indian branch of the assessee does not come within the ambit of section 9(1)(v)(c) of the Act. The ratio laid down by the co-ordinate Bench in case of *Credit Agricole Indosuez* (supra) and *Assam Fronter Tea Co. Ltd.* (supra) support this view. In our view, the departmental authorities have failed to correctly interpret the provision of section 9(1)(v)(c) of the Act, hence, committed the error of bringing to tax the interest received by the Indian branches from other overseas branches. In so far as, the observation of the AO

that even the interest income would otherwise be covered under the general clause contained under clause 9(1)(i) of the Act, we are not impressed. When a specific provision in the form of section 9(1)(v) of the Act has been brought to the statute w.e.f. 01.06.1976 for taxing the interest income, the general provision would not apply. Thus, we hold that the interest amount of Rs.6,68,50,601/- is not taxable in India. Ground No. 1 is allowed.

15. In ground No. 2, the assessee has challenged the disallowance of expenditure amounting to Rs.2,21,05,763/- on the alleged interest income earned from foreign currency lendings to Indian entities.

16. Briefly, the facts are, in course of assessment proceedings, the A.O. noticed that the assessee had paid tax at 20% on the interest earned on FCNR(B) deposits by applying the provision of section 115A of the Act. After calling for and verifying the necessary details, the AO was of the view that the interest income cannot be made taxable on gross basis in terms with section 115A of the Act. He observed that the expenses attributable to earning of interest income has to be computed by establishing the link between the funds deployed and interest earned. Accordingly, he computed the interest expenses at Rs.2,30,74,177/-. However, since the interest expenditure so computed was more than the interest income, he restricted the disallowance to Rs.2,21,05,763/-.

17. The assessee contested the aforesaid disallowance before learned first appellate authority.

18. Though learned first appellate authority was conscious of the fact that the issue was decided in favour of the assessee by the Hon'ble Supreme Court in case of *Rajasthan State Warehousing Corporation v. CIT* [2000] 242 ITR 450 (SC), however, referring to the

provision contained u/s.14A of the Act, which was introduced to the statute with retrospective effect from 01.04.1962, he held that disallowance has to be computed under the said provision with reference to the exempt income earned by the assessee. Accordingly, he upheld the disallowance.

19. We have considered rival submissions and perused the materials available on record. We have also applied our mind to the judicial precedents cited before us. Having gone through the materials available on record, we have no doubt in mind that the assessee has not claimed the interest income to be exempt. The assessee has only claimed beneficial rate of tax as provided u/s.115A of the Act. The departmental authorities have no dispute regarding applicability of section 115A of the Act. Thus, it is not a case of assessee has claimed any exemption from taxation *qua* the interest income. Therefore, learned first appellate authority has committed a fundamental error in applying the provisions of section 14A of the Act, which is applicable only in case of attribution of expenditure with reference to exempt income earned during the year. In this context, we also find support from the following decisions:

- *Bank of Nova Scotia vs. ADIT* [2024] 160 taxmann.com 10 (Mumbai-Trib.)
- *South Indian Bank SC* [2021] 130 taxmann.com 178 (SC)

Thus, in view of the aforesaid, we direct the AO to delete the disallowance.

20. In ground no. 3, the assessee has challenged the disallowance of expenditure amounting to Rs.11,07,000 u/s. 14A of the Act, being the expenditure attributable to earning exempt interest income.

21. In course of assessment proceeding, the AO noticed that during the year, the assessee had no exempt income amounting to Rs.11,07,000/-, which has been claimed as exempt u/s.10(15)(4A) of the Act, whereas, the assessee has not disallowed any expenditure for earning such income. After verifying the details and referring to certain judicial precedents, the AO restricted the disallowance to the exempt income earned to Rs.11,07,000/-.

22. Though the assessee contested the aforesaid disallowance before learned first appellate authority, however, it was unsuccessful.

23. We have considered rival submissions and perused the materials available on record. Upon going through the financial statements of the assessee, we find, the interest-free fund available with the assessee was more than enough to take care of the investments giving rise to exempt income. Therefore, as per the legal position settled by the Hon'ble Supreme Court, Hon'ble Jurisdictional High Court and the co-ordinate benches, no disallowance of interest expenditure can be made. Accordingly, we direct the AO to delete the disallowance.

24. In ground number 4, the assessee has challenged disallowance of write-back of provision of bad debt amounting to Rs.39,18,611/- u/s. 36(1)(vii) of the Act.

25. We have considered rival submissions and perused materials available on record. In course of assessment proceedings, the AO found that the assessee had written back an amount of Rs.74,07,000/- towards bad debts written off. Referring to the decision taken by the AO with regard to the similar claim made in A.Y. 1997-98, the AO disallowed assessee's claim.

26. Learned first appellate authority dismissed the ground raised on the issue by stating that the assessee did not press it.

27. We have considered rival submissions and perused the materials available on record. It is the case of the assessee that the amount though was written off in the earlier assessment year, however, such write off was not allowed, hence, the assessee has written back the amount in the impugned assessment year. In our view, if the amount in dispute has already been taxed in the earlier assessment year, it cannot be taxed again. The AO is directed to verify the factual position with reference to assessee's claim and decide the issue in accordance with the law.

28. In ground no. 5, the assessee has contested the disallowance of broken period interest amounting to Rs.4,45,09,027/- on purchase of current securities. As per Reserve Bank of India ('RBI' for short) guidelines, banks are required to purchase securities to maintain Statutory Liquidity Ratio (SLR). According to the accounting principle followed by the Banks, these securities are held as stock-in-trade. The banks have to pay interest for the broken period, which is claimed as deduction. Relying upon certain judicial precedents, the departmental authorities have held that the broken period interest is not allowable as revenue expenditure.

29. Having considered rival submissions, we find that the issue is settled in favour of the assessee in case of *Bank of Rajasthan Ltd. vs. CIT* [2024] 167 Taxman.com 430 (SC), wherein after taking note of the decision of Hon'ble Supreme Court in the case of *Vijaya Bank Ltd. vs. Addl. CIT* [1957] 152 Taxman 152 (SC) and *American Express International Banking Corporation v. CIT* [2002] 125 Taxman.com 488 (Bom), the Hon'ble Supreme

Court has held that the broken period interest is allowable as revenue expenditure. Thus, respectfully following the ratio laid down by the Hon'ble Supreme Court, we direct the AO to delete the addition.

ITA No. 5199/Mum/2001 (Department's appeal for A.Y. 1998-99)

30. In ground no.1, the Department has challenged the deletion of addition made of club membership fees amounting to Rs.20,67,188/-.

31. Briefly, the facts are, in course of assessment proceedings, noticing that the assessee had claimed deduction of an amount of Rs.20,67,188/- towards payment made to clubs, called upon the assessee to justify the deduction claimed. After considering the submissions of the assessee, the AO concluded that the expenditure incurred is not wholly and exclusively for the purpose of business, hence, is not allowable. Accordingly, he disallowed the same. While deciding the issue in appeal, learned first appellate authority allowed the claim.

32. We have considered rival submissions and perused the materials available on record. We find, the assessee has been settled in favor of the assessee by various judicial precedents. In this context, we place reliance upon the decision in the case of *Swiss Re Services India (P) Ltd.* [2023] 156 taxmann.com 56 (Bom), wherein the Honorable High Court, while dealing with an identical issue, has held that the payment made towards entrance and subscription fee of employees is allowable as 'revenue expenditure'. In case of *CIT v. United Glass Manufacturing Co. Ltd*. [2012] 28 taxmann.com 429, Hon'ble Supreme Court has upheld allowability of club membership fee for employees as allowable

expenditure. Thus, respectfully following the decisions referred above, we uphold the decision of Ld. First Appellate Authority by dismissing this ground.

33. In ground no. 2, the Revenue has challenged the deletion of interest charged of Rs.70,03,862/- u/s. 234B of the Act.

34. Briefly stated, while completing the assessment and computing the tax liability of the assessee, the AO found that at the time of processing of return of income of the assessee u/s. 143(1)(a) of the Act, refund was granted to the assessee. Thus, referring to the provision contained under sub-section (4) of section 143 of the Act, the AO computed interest u/s. 234B of the Act by treating the refund granted to the assessee as shortfall in payment of advance tax and charged interest u/s.234B of the Act.

35. The assessee contested the levy of interest before ld. first appellate authority.

36. After considering the submissions of the assessee and referring to the provisions contained u/s. 143(4) and section 234B of the Act, ld. first appellate authority held that the refund granted u/s. 143(1)(a) of the Act can only be recovered by resorting to the provision contained u/s.234D of the Act, which was not in the statute at the relevant time. As section 234B of the Act as section 234B of the Act is for shortfall in advance tax, it cannot be invoked for charging interest on refund. Accordingly, he deleted the interest levied u/s. 234B of the Act.

37. We have considered rival submissions and perused the materials available on record. Notably, identical issue has been considered by the co-ordinate bench in case of *M/s. Banque Indosuez (known as Credit Agricole Indosuez) and others* (in ITA No.

3098/Mum/2000 & others vide order dated 21.09.2012). While dealing with the issue, the co-ordinate bench has held as under:

> *21. Ground no.4 of the Revenue's appeal is against the direction of the learned CIT(A) to disregard the refund while calculating the interest u/s 234B of the Act. The learned CIT(A) vide para 9.3 of the impugned order held that section 234D was brought into the statute by the Finance Act, 2003 with effect from 01.06.2003 and as such the Assessing Officer was not justified in charging interest u/s 234B with reference to the fund issued u/s 143(1)(a) earlier.*
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> *22. Having heard the rival submissions and perused the relevant material on record it is observed that the learned CIT(A) has rightly considered the mandate of sections 234B and 234D. Obviously, the interest u/s 234B is required to be calculated on the basis of total income computed without considering the refund determined u/s 143(1) of the Act. We, therefore, uphold the impugned order on this issue. This ground is not allowed.*

38. Viewed in the context of the aforesaid observations of the co-ordinate bench, the A.O. essentially seeks to levy interest u/s. 234D of the Act in the garb of section 234B of the Act though section 234D of the Act was not in the statute at the relevant point of time. In view of the aforesaid, we do not find any infirmity in the decision of ld. First appellate authority. Hence, this ground is dismissed.

CO No.232/Mum/2001 (by the Department for A.Y. 1998-99)

39. The department has filed an application seeking condonation of delay of 553 days in filing the cross-objection. It is necessary to observe that assessee's appeal was filed on 19.09.2001. Whereas, the cross-appeal was filed by the Revenue on 16.08.2001. The cross-objection was filed on 08.10.2013. Thus, actually, there is delay of more than 12 years in filing the cross-objection. However, the department has recognized the delay from the date of decision in case of *Sumitomo Mitsui Banking Corpn. Vs. DDIT* [2012] 19 taxmann.com 364 (Mum.)(SB) delivered on 31.03.2001. In our view, this reasoning of the department cannot be accepted. It is established on record that the delay is more than 12 years, which by any standard is inordinate. Therefore, the assessee has to explain the delay of 12 years and not 553 days. Even, for argument's sake, accepting department's contention that the

delay has to be recognized from the date of decision rendered in case of *Sumitomo Mitsui Banking Corpn.* (supra), there is a delay of 553 days. However, there is no justifiable reason shown for condoning delay. Therefore, the cross-objection deserves to be dismissed *in limine* without condoning delay.

40. Suffice to say, even otherwise also, the cross-objection on the issue of applicability of section 14A of the Act to the interest received on Nostro account/ overseas placements of fund is not acceptable in view of the decision of ITAT (SB) in case of *J.P. Morgan Chase Bank, N.A. vs. Joint Commissioner of Income-tax (JCIT)* (in ITA No. 9189/Mum/2004 & CO No. 139/Mum/2013 vide order dated 10.10.2025) wherein the Bench has held that the interest received/paid from/to head office and overseas branches being payment to self is not in the nature of income, hence, would not enter the computation stream at all. Therefore, the provision of section 14A would not be applicable. Respectfully following the ratio laid down by the Special Bench in the decision referred to above, we dismiss the cross objection.

ITA No. 3279/Mum/2004 (Assessee's appeal for A.Y. 1999-2000)

41. In ground no. 1, the assessee has contested the addition of interest received from Nostro account and overseas placement of funds with head office and overseas branches, as also other overseas banks. This issue is identical to the issue raised in ground no.1 of ITA No. 5514/Mum/2000, decided by us in the earlier part of the order. Following our reasoning therein, we hold that the interest is not taxable in India. Accordingly, the AO is directed to delete the addition.

42. In ground no. 2, the assessee has raised the issue of disallowance of loss of Rs.33,45,486/- arising out of revaluation of Foreign Exchange contracts.

43. We have considered rival submissions and the material available on record. In its regular course of business, the assessee enters into contracts in foreign exchange. As per the accounting regularly followed by the assessee, the foreign exchange contracts outstanding at the end of the year are revalued and the gain/loss arising on such revaluation is either offered to tax or claimed as loss. In the year under consideration, there was loss of Rs.33,45,486/- on such revaluation. When called upon to justify the claim, the assessee submitted that such revaluation at market price at the end of the year has to be undertaken as per the guidelines of FEDAI. The AO, however, was not convinced. He was of the view that such loss on revaluation is speculative and is in the nature of contingent liability, as, if at all, such loss would be arising at a future date. Thus, he held that such loss cannot be allowed as deduction u/s. 37 of the Act.

44. Learned first appellate authority upheld the decision of the A.O.

45. Having considered rival submissions, we find that the issue is settled in favour of the assessee by the decision of the ITAT, Special Bench in the case of *DCIT vs. Bank of Bahrain & Kuwait* [2010] 41 SOT 290 (Mum-SB). Thus, respectfully following the Special Bench decision noted above, we direct the AO to allow the assessee's claim.

46. In the result, the appeal is allowed.

ITA No. 3926/Mum/2004 (Department's appeal for A.Y. 1999–2000)

47. At the outset, learned counsel appearing for the assessee submitted that the tax effect on the amount disputed by the department is below the monetary limit of Rs.60 lakhs.

48. Ld. DR fairly conceded to the aforesaid factual position.

49. Thus, keeping in view the fact that the appeal filed by the department is not maintainable due to low tax effect as per the extant Circular issued by CBDT, we dismiss the appeal.

CO No. 279/Mum/2013 (by the Department for A.Y. 1999-2000)

50. The department has filed an application seeking condonation of delay in filing the cross-objection. It is necessary to observe that assessee's appeal was filed on 30.05.2004. Whereas, the cross-appeal was filed by the Revenue on 14.05.2004. The cross-objection was filed on 08.10.2013. Thus, actually, there is delay of more than 9 years in filing the cross-objection. However, the department has reckoned the delay from the date of decision in case of *Sumitomo Mitsui Banking Corpn. Vs. DDIT* [2012] 19 taxmann.com 364 (Mum.)(SB) delivered on 31.03.2001. In our view, the reasoning of the department cannot be accepted. It is established on record that the delay is more than 9 years, which by any standard is inordinate. Therefore, the department has to explain the delay of 9 years. Even for argument's sake, accepting the department's contention that the delay has to be recognized from the date of decision rendered in case of *Sumitomo Mitsui Banking Corpn.* (supra). There is no justifiable reason shown for delay in filing the cross-objection. Therefore, the cross-objection deserves to be dismissed *in limine* without condoning delay. Suffice to say, even otherwise also, the cross-objection on the issue of applicability of

section 14A of the Act to the interest received on Nostro account/ overseas placements of fund is not acceptable in view of the decision of ITAT (SB) in case of *J.P. Morgan Chase Bank, N.A. vs. Joint Commissioner of Income-tax (JCIT)* (in ITA No. 9189/Mum/2004 & CO No. 139/Mum/2013 vide order dated 10.10.2025) wherein the Bench has held that the interest received/paid from/to head office and overseas branches being payment to self is not in the nature of income, hence, would not enter the computation stream at all. Therefore, the provision of section 14A would not be applicable. Respectfully following the ratio laid down by the Special Bench in the decision referred to above, we dismiss the cross objection.

ITA No. 3280/Mum/2004 (by Assessee's appeal for A.Y. 2000–01)

51. The only issue arising in the appeal relates to the addition of interest received from Nostro account and overseas placement of funds with head office and overseas branches, as also other overseas banks. This issue is identical to the issue raised in ground no.1 of ITA No. 5414/Mum/2000, decided by us in the earlier part of the order. Following our reasoning therein, we hold that the interest is not taxable in India. Accordingly, the AO is directed to delete the addition.

ITA No. 3927/Mum/2004 (Department's appeal for A.Y. 2000-01)

52. Ground no. 1, the department has contested the disallowance of broken period interest amounting to Rs.11,73,76,223/- on purchase of current securities. As per Reserve Bank of India ('RBI' for short) guidelines, banks are required to purchase securities to maintain Statutory Liquidity Ratio (SLR). According to the accounting principle followed by the Banks, these securities are held as stock-in-trade. The banks have to pay interest for the broken period, which is claimed as deduction. Relying upon certain judicial precedents,

the departmental authorities have held that the broken period interest is not allowable as revenue expenditure.

53. Having considered the rival submissions, we find that the issue is settled in favour of the assessee in case of *Bank of Rajasthan Ltd. vs. CIT* [2024] 167 Taxman.com 430 (SC), wherein after taking note of the decision of Hon'ble Supreme Court in the case of *Vijaya Bank Ltd. vs. Addl. CIT* [1957] 152 Taxman 152 (SC) and *American Express International Banking Corporation v. CIT* [2002] 125 Taxman.com 488 (Bom), the Hon'ble Supreme Court has held that the broken period interest is allowable as revenue expenditure. Thus, respectfully following the ratio laid down by the Hon'ble Supreme Court, we direct the AO to delete the addition.

54. In ground no. 2, the department has challenged the deletion of disallowance of Rs.64,384/- on account of penalty paid to Reserve Bank of India for inadequate CRR/SLR balance.

55. We have considered rival submissions and perused the material available on record. The short issue arising for consideration is whether the payment made to RBI towards shortfall in maintaining CRR/SLR balance is covered under the proviso to section 37(1) of the Act. We find, the issue has been decided in favor of the assessee by the Hon'ble Jurisdictional High Court in the case of *CIT vs. Bank of Baroda* (in ITA No. 4169/Mum/2009 vide order dated 15.02.2020). The observations of the Hon'ble Jurisdictional High Court are as under:

> *1. The only question raised by the revenue in this appeal is, whether the interest paid by the assessee for non maintainance of the cash reserve ratio / statutory liquidity ratio as per Section 24 of the Banking Regulation Act, 1949 and Section 42 of the Reserve Bank of India Act, 1934 constitute penalty so as to disallow the interest claim. The Tribunal following the decision in the case of DCIT V/s. Dhanalakshmi Bank Ltd. (Cochin) reported in 76 TTJ 439 held that the interest*

paid to the RBI was not penalty and accordingly the interest expenditure is allowable. SLP led by the revenue against similar decision of the Tribunal in the case of Dhanalakshmi Bank Ltd. (supra) has been dismissed by the Apex Court as reported in [2005] 277 LTR. (ST) 3. In this view of the matter, we find no merit in the appeal and the same is dismissed with no order as to costs.

56. Thus, respectfully following the observations of the Hon'ble Jurisdictional High Court, we uphold the decision of learned first appellate authority.

57. In the result, the appeal is dismissed.

CO No. 280/Mum/2013 (by the Department for A.Y. 2000-01)

58. The department has filed an application seeking condonation of delay of 615 days in filing the cross-objection. It is necessary to observe that assessee's appeal was filed on 30.04.2004, whereas, the cross-appeal was filed by the Revenue on 14.05.2004. The cross-objection was filed on 06.12.2013. Thus, actually, there is a delay of more than 9 years in filing the cross-objection. However, the department has recognized delay from the date of decision in case of *Sumitomo Mitsui Banking Corpn. Vs. DDIT* [2012] 19 taxmann.com 364 (Mum.)(SB) delivered on 31.03.2001. In our view, the reasoning of the department cannot be accepted. It is established on record that the delay is of more than 9 years, which by any standard is inordinate. Therefore, the department has to explain the delay of 9 years and not 615 days. Even for argument's sake, accepting the department's contention that the delay has to be recognized from the date of decision rendered in case of *Sumitomo Mitsui Banking Corpn.* (supra), there is no justifiable reason explaining the delay in filing the cross-objection has been shown. Therefore, the cross-objection deserves to be dismissed *in limine* without condoning delay. Suffice to say, even otherwise also, the cross-objection on the issue of applicability of section 14A of the Act to the interest received on Nostro account/ overseas placements of fund is not acceptable in view of the decision of ITAT

(SB) in case of *J.P. Morgan Chase Bank, N.A. vs. Joint Commissioner of Income-tax (JCIT)* (in ITA No. 9189/Mum/2004 & CO No. 139/Mum/2013 vide order dated 10.10.2025) wherein the Bench has held that the interest received/paid from/to head office and overseas branches being payment to self is not in the nature of income, hence, would not enter the computation stream at all. Therefore, the provision of section 14A would not be applicable. Respectfully following the ratio laid down by the Special Bench in the decision referred to above, we dismiss the cross objection.

59. To sum up, assessee's appeals for all the years are allowed and Revenue's appeals along with cross objection for all the years are dismissed.

Order pronounced in the open court on 30/06/2026.

Sd/-	Sd/-
(Prabhash Shankar) Accountant Member	(Saktijit Dey) Vice President

Mumbai; Dated : 30/06/2026
Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai