

आयकरअपीलीयअधिकरणन्यायपीठमुंबईमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
“I” BENCH, MUMBAI

BEFORE SMT. BEENA PILLAI, JM
&
SHRI ARUN KHODPIA, AM

I.T.A. No.8160/Mum/2025
(Assessment Year: 2016-17)

KBC Bank Naamloze Vennootschap C/o Deloitte Huskins & Sells Chartered Accountants LLP, One International Centre, Tower 3, 28 th floor, Senapati Bapat Marg, Elphinston (W), Mumbai-400013	Vs.	The Assistant Commissioner of Income Tax Int Tax Circle 3(1)(2), Mumbai C 41-43, Avenue 3, G-block, Near Videsh Bhavan, Bandra Kurla Complex, Bandra East, Mumbai- 400051
PAN: AAFCK8800J		
Assessee- अपीलार्थी / Appellant	:	Revenue- प्रत्यर्थी / Respondent

Assessee by : Shri Ketan Ved /
Abdulkadir Jawadwala
Revenue by : Shri Krishna Kumar (SR. DR)
Date of Hearing : 28.04.2026
Date of Pronouncement : 13.07.2026

ORDER

Per Arun Khodpia, AM:

The captioned appeal is preferred by the assessee, against the order under section 147 r.w.s 144C(13) of the Income Tax Act, 1961 [in short, “the Act”] dated 29.09.2025 for Assessment Year (AY) 2016-17, passed by Assistant Commissioner of Income Tax Int. Tax Circle 3(1)(2), Mumbai [in short, “the Ld. AO”]. The grounds of appeal raised by the assessee are as under:

“Invalid Proceedings under section 148 of the Income Tax Act, 1961 (‘the Act’)

1. The notice issued under section 148 of the Act is invalid and consequently the Order should be quashed.

1A. Without prejudice to the above, the learned ACIT erred in not appreciating that the notice is time barred and therefore void-ab-initio and should be quashed.

1B. Without prejudice to the above, the learned ACIT erred in not appreciating that no notice can be issued under section 148 of the Act on the basis of change in opinion.

Addition of reversal of general provision for standard assets of Rs. 3,14,00,000

2. The learned ACIT erred in adding back the reversal of general provision for standard assets of Rs. 3,14,00,000 under the normal provisions of the Act.

2A. The learned ACIT be directed to delete addition of reversal of general provision for standard assets of Rs. 3,14,00,000 under the normal provision of the Act.

3. The learned ACIT erred in adding back general provision for standard asset of Rs. 3,14,00,000 for computing book profit under section 115JB of the Act.

3A. The learned ACIT be directed to delete addition of reversal of general provision for standard assets of Rs. 3,14,00,000 under section 115JB of the Act.

Addition of Rs. 1,04,42,250 for computing the book profit under section 115JB of the Act

4. The learned ACIT erred in adding back forfeiture of security of Rs. 1,04,42,250 for computing book profit under section 115JB of the Act.

4A. The learned ACIT has erred in not appreciating that the provision for security deposit of Rs. 1,04,42,250 has been suo moto added back while computing book profit under section 115JB of the Act.

4B. The learned ACIT be directed to delete addition of provision for security deposit of Rs. 1,04,42,250 under section 115JB of the Act.

Short grant of Tax Deducted at Source (‘TDS’) credit of Rs. 1,54,59,699

5. The learned ACIT has erred in granting credit for TDS of only Rs. 50,47,728 instead of Rs. 2,05,07,427 as claimed in return of income.

5A. The learned ACIT be directed to grant additional TDS credit of Rs. 1,54,59,699.

Incorrect mention of refund amount issued

6. The learned ACIT has erred in considering the amount of refund already issued as Rs. 2,98,03,228 (including interest under section 244A of the Act) instead of Rs. 2,65,82,132 as actually received by the Appellant.

6A. Accordingly, the learned ACIT be directed to delete error relating to the excess refund of Rs. 32,21,096 as issued to Appellant.

Interest under section 234B of the Act

7. The learned ACIT erred in levying interest under section 234B of the Act of Rs. 92,71,050.

Interest under section 234C of the Act

8. The learned ACIT erred in levying interest under section 234C of the Act of Rs. 22,815.

Penalty

9. The learned ACIT erred in initiating penalty proceedings under section 271(1)(C) of the Act.

General

10. Each one of the above grounds of appeal is without prejudice to the other.

11. The Appellant reserves the right to amend, alter, add or delete the above grounds of appeal.”

2. Brief facts of the case are, that the assessee is a foreign company eligible in terms of provisions of section 144C(15)(b)(ii) of the Act. A draft assessment order was passed on 27.03.2025, as per provisions of section 144C of the Act, wherein certain variations were proposed to the total income returned by the assessee. The assessee raised objections against the proposed variations before the Dispute Resolution Panel-1, Mumbai (in short, “DRP”). The objections of assessee were disposed of vide directions of DRP u/s 144C(5) of the Act dated 22nd August, 2025. According to the directions of DRP, the impugned assessment is completed on 29.09.2025 and the income of the assessee has been recomputed by the Ld. AO, detailed as under:

As per Normal Provisions:

Particulars	Amount (In Rs.)	Amount (In Rs.)
Losses of current year claimed to be carried forward as per ITR		(-) 86,39,968/-
Add: General Provision for Loan Loss as above	3,14,00,000/-	3,14,00,000/-
Total Assessed Income		2,27,60,032/-
Rounded off to...		2,27,60,030/-

As per Book Profit u/s. 115JB:

Particulars	Amount (In Rs.)	Amount (In Rs.)
Book Profit as assessed as per Order u/s.143(3) dated 25.12.2018		2,60,86,263/-

Add: Claimed but not allowed		
1. Provision for forfeiture of security deposit as above	1,04,42,250/-	4,18,42,250/-
2. General provision for loan losses as above	3,14,00,000/-	
Book Profit assessed u/s:115JB		6,79,28,513/-
Rounded off to...		6,79,28,510/

3. Being aggrieved with the aforesaid variations in the returned income, the assessee is in appeal before us.

4. The Ld. AR of assessee preferred to argue the matter on merits, accordingly Ground No.1, 1A and 1B are not pressed.

5. Ground No.2 has been raised to challenge the addition on account of reversal of general provision for standard assets amounting to Rs.3,14,00,000/-.

The Ld. AR of the assessee submitted that the reversal of general provision of standard asset was bad in law, which is made under the normal provisions of the Act as well as while computing the book profit u/s 115JB of the Act. It is submitted that during the period under consideration, the assessee-company had written-back the said provisions for standard asset/loss for Rs.3,14,00,000/-, since the provision for said standard asset/loss were not claimed as deduction in the earlier years, the write-back of the same has been reduced from computation of total income.

6. To substantiate the aforesaid fact, Ld. AR drew our attention to profit and loss account of the assessee-company placed at page no. 77 of the assessee's paper book wherein the amount for provision and contingency was shown at Rs.

(1,73,45,000/-). Further, the bifurcation of provision and contingencies charged to P & L is shown at page no. 78 of assessee's paper book according to which the aforesaid amount of Rs. (17,345,000/-) includes Rs. (42,300,000/-) which is the provision against standard assets carried forward from 31st March, 2015. It is submitted that since the assessee has not claimed such provisions as deduction in the earlier year, therefore, the write-back of the same has been added back while computing the total income of the assessee.

7. Before us, Ld. AR of the assessee clarified that the provision and contingencies are shown under the head expenditure and P & L account and since the figure is negative, it is actually increasing the income of the assessee. It is further submitted that the Antwerp Diamond Bank NV (ADB) was merged with the assessee KBC Bank N.V. on 1st July, 2015. Therefore, the amount of opening provision for Rs.(42,300,000/-) was divided between the existing entity and the merged entity for the period from 1st April 2015 to 30th June, 2015 and 1st July 2015 to 31st March, 2016 respectively. The provision has been reversed in accordance with the aforesaid periodic ratios. It is submitted that in fact no deduction for said provision has been claimed in the earlier year, in which the said provisions were created, therefore, the write-back of said provision cannot be considered as income. Accordingly, the write-back of said provision which is credited to the profit and loss account has been correctly reduced on the computation of the business income.

8. Per contra, Ld. DR vehemently supported the orders of DRP and the Ld. AO.

9. On a fair consideration of facts available on record and submission of both the parties, we find that the assessee has credited the amount of provision for general loan loss / provision on standard assets after making certain adjustments regarding provision for Income Tax write-off of non-performing assets provision for country risk/written-back thereby reached at a figure of Rs. (1,73,45,000/-) which is shown as negative expense in the P & L account. While computing the income, the assessee has added this item back to the amount of profit before tax. Prima facie it seems that the assessee has added such amount in the P & L account in the income of the assessee (by showing it in negative under the expenses) and the same amount is being reduced while making the computation, therefore, the effect of same would be Nil. Accordingly, it cannot be brought to tax again. However, since the information of financials of assessee are not fully available before us, we deem it appropriate to restore this issue back to the file of Ld. AO for verification of factual aspect and to allow the claim of assessee for general provision for loan loss as per facts on record. **In result, Ground Nos. 2 and 3 of the present appeal are allowed for statistical purposes.**

10. **Ground No.4** of the present appeal pertains to addition of Rs.1,04,42,250/- on account of adding back forfeiture of security, while computing book profit u/s 115JB of the Act. It is submitted that the amount of security deposit has been *suo*

moto added back by the assessee while computing taxable income u/s 115JB, therefore, the same need not be added back which otherwise would tantamount to double addition of the same ineligible claim. It is submitted that the assessee-company has reduced net amount of Rs.2,55,83,513/-, which includes reduction of Rs.3,60,25,758/- towards reversal of non-cancellable lease less addition for Rs.1,04,42,250/- towards provision for forfeiture of security.

11. Per contra, Ld. DR supported the order of Ld. AO.

12. On a thoughtful consideration of the aforesaid submissions by the assessee and the Revenue. We find that the assessee has already *suo moto* added back the aforesaid amount to its income while computing the book profit u/s 115JB of the Act, the same cannot be added twice. The Ao thus is directed to delete this disallowance after factual verifications. **In result, Ground No.4 of the present appeal stands allowed.**

13. **Ground No.5** pertains to TDS credit which according to assessee was not granted by the Ld. AO as claimed by the assessee for Rs.2,05,07,427/-. It is requested that this issue may be remitted to the Ld. AO to verify and allow the credit of TDS to assessee as per facts on record. We accordingly set aside this issue to the file of Ld. AO for fresh verification and adjudication. **Ground No.5 is allowed for statistical purposes.**

14. **Ground No.6** regarding amount of refund, interest u/s 234B and 234C of the Act as well as Ground No.9 regarding penalty are consequential in nature and

premature to be decided at this stage, therefore are restore these grounds back for consideration of the Ld. AO to revisit the facts and decide the same afresh.

15. **Ground Nos.10 and 11** are general in nature thus do not call for any separate adjudication.

16. In result, the appeal of assessee is **allowed for statistical purposes**, in above terms.

Order pronounced in the open court on 13-07-2026.

**Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER**

**Sd/-
(ARUN KHODPIA)
ACCOUNTANT MEMBER**

Mumbai, Dated : 13-07-2026.
Ankit K., Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai