

आयकर अपीलीय अधिकरण, मुंबई पीठें, मुंबई
INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES, MUMBAI

BENCH: I

BEFORE SMT. BEENA PILLAI, HON'BLE JUDICIAL MEMBER
AND SHRI BIJAYANANDA PRUETH, HON'BLE ACCOUNTANT MEMBER

ITA 5667/MUM/2004 (निर्धारण वर्ष/Assessment Year: 2000-01)		
DDIT(IT)- 1(1) SCINDIA HOUSE, N.M.ROAD BALLARD PIER,, MUMBAI- 400001, MAHARASHTRA	Vs.	M/S. AMERICAN EXPRESS BANK LTD. FORT HOUSE, 1 ST FLOOR, 221, D.N.ROAD, FORT. MUMBAI-400001, MAHARASHTRA
अपीलार्थी Appellant		प्रत्यर्थी Respondent
PAN of Assessee: AABCA0588K		
अपीलार्थी द्वारा/Appellant represented by: Shri Kamlesh Makwana - CIT DR		
प्रत्यर्थी द्वारा/Respondent represented by: Shri P.J.Pardiwala/ Hiten Thakkar, AR		

ITA 9414/MUM/2004 (निर्धारण वर्ष/Assessment Year: 2000-2001)		
M/S AMERICAN EXPRESS BANK LTD. FORT HOUSE, 1 ST FLOOR, 221, D.N.ROAD., MUMBAI- 400001, MAHARASHTRA	Vs.	THE JT DIT (IT)1(1) SCINDIA HOUSE, 1 ST FLOOR, BALLARD ESTATE MUMBAI-400038, MAHARASHTRA
अपीलार्थी Appellant		प्रत्यर्थी Respondent
PAN of Assessee: AABCA0588K		
अपीलार्थी द्वारा/Appellant represented by: Shri P.J.Pardiwala/ Hiten Thakkar, ARs		
प्रत्यर्थी द्वारा/Respondent represented by: Shri Kamlesh Makwana - CIT DR		

सुनवाई की तारीख / Date of conclusion of hearing:	27-Jul-2026
घोषणा की तारीख / Date of pronouncement:	08/10/2026

आदेश / ORDER

PER BENCH:

These cross appeals filed by the assessee and the Revenue are directed against the order dated 30/03/2004 passed by the Ld. Commissioner of Income Tax (Appeals) ["Ld. CIT(A)"] u/s. 250 of the Income-tax Act, 1961 ("the Act"), arising out of the assessment order passed u/s. 143(3) of the Act for A.Y. 2000-01. Since both the appeals arise out of the same impugned order, they were heard together and are being disposed of by way of this common order.

2. The assessee has raised the following grounds of appeal:

"1. The CIT(A) erred in confirming the disallowance of Rs. 26,554,550 being an estimate of the expenditure incurred by the Appellant for earning interest on foreign currency loans, taxable u/s 115A of the Act.

2. The CIT(A) erred in treating interest expenditure amounting to Rs. 267,974,011 and administrative cost amounting to Rs. 59,149,521 as cost of earning interest income from head office and other branches and disallowing the same by applying the provisions of section 14A of the Income-tax Act, 1961 ('the Act').

Without prejudice to the above, the learned CIT(A) erred in disallowing and directing addition of Rs. 59,149,521.

3. The CIT(A) erred in confirming the disallowing loss on revaluation of foreign exchange contracts of Rs. 69,814,406.

4. The CIT(A) erred in confirming the disallowance of the claim for direct expenses incurred by the head office/overseas branches on global system charges amounting to Rs. 42,418,272 on the ground that the same is considered in the nature of royalty and hence not allowable by virtue of section 40(a)(i) of the Act."

3. The Revenue in ITA No. 5667/Mum/2004 has raised the following grounds of appeal:

"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in directing to delete the addition of Rs. 1,00,12,163/- on account of expenditure incurred in earning income exempt u/s. 10(33) and 10(15) of the I.T. Act, 1961.

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in directing the AO to allow the tax neutrality claimed by the assessee Bank as regards interest on NOSTRO account paid to and received from its Head Office and overseas branches amounting to Rs. 13,09,03,922/- and not holding that interest received on NOSTRO account is the income of the assessee Bank and interest paid

to HO/Overseas branches without deduction of tax at source is an expenditure which is not allowed u/s. 40(a)(i) of the I.T. Act, 1961.

3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in directing to allow the broken period interest of Rs. 10,67,69,760/- without appreciating the fact that the said broken period interest forms cost of securities held by the assessee bank as investment.

4. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in directing to allow a sum of Rs. 2,76,47,618/- towards the expenses incurred for Indian Branches by Head Office/Overseas branches of the assessee and holding that they are beyond the provisions of section 44C of the I.T. Act, 1961.

5. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in holding that expenditure incurred on Voluntary Retirement Scheme (VRS) is not of a capital nature.”

4. Brief facts of the case are as under:-

Assessee is a banking company incorporated in the United States of America and was carrying on banking business in India through its branches, which constituted its Permanent Establishment (“PE”) in India. In the course of assessment proceedings, the Ld. AO made various additions/disallowances, inter alia, in respect of expenditure relatable to income chargeable at the special rate u/s. 115A, interest transactions with the Head Office/overseas branches, expenditure sought to be disallowed u/s. 14A, loss on revaluation of outstanding foreign exchange contracts, global system charges and other Head Office expenditure, broken-period interest and expenditure incurred under the Voluntary Retirement Scheme.

4.1. On appeal, the Ld.CIT(A) granted relief on certain issues and sustained the additions/disallowances on others.

Aggrieved by the order of the Ld.CIT(A), both the assessee and the Revenue are in appeal before this *Tribunal*.

5. Ground No. 1 raised by the assessee relates to the disallowance of Rs. 2,65,54,550/-, being expenditure estimated as attributable to earning interest on foreign currency loans chargeable to tax at the special rate prescribed u/s. 115A of the Act.

5.1 Brief facts leading to the issue is that, the assessee earned interest income of Rs. 4,09,60,055/- from foreign currency loans, which was chargeable to tax at the special rate of 20% u/s.115A. The Ld. AO was of the view that expenditure incurred for earning such income could not be allowed against the other business income and accordingly estimated expenditure of Rs.2,65,54,550/- The Ld. CIT(A), following the view taken in the earlier assessment years, sustained the disallowance.

5.2. Before this *Tribunal*, the Ld.Sr.Counsel submitted that, this issue is recurring and stands squarely covered in favour of the assessee by the orders passed in its own case for the earlier assessment years. He placed reliance on the order passed by coordinate Bench in assessee's own case for A.Y. 1999-2000 in *DDIT(IT)-1(1) v. American Express Bank Ltd. and Standard Chartered Holdings Inc. (successor of American Express Bank Ltd.) v. ACIT, ITA Nos. 3487 & 3508/Mum/2004, order dated 17/06/2026*. It was pointed out that the said order, followed the decision for A.Y. 1998-99 in *ITA No. 5374/Mum/2001 dated 10/08/2012*, which had been upheld by the *Hon'ble Bombay High Court in ITA No. 1507 of 2013 dated 17/08/2015*.

5.3. On the contrary, the Ld.DR relied on the orders of the authorities below.

We have perused the submissions advanced by both sides in light of the record placed before us.

6. We find that while deciding identical issue for A.Y. 1999-2000, the co-ordinate Bench followed the decision rendered in the assessee's own case for A.Y.1998-99. The relevant conclusion from the earlier decision, as reproduced in the A.Y. 1999-2000 order, reads as under:

"If the income is not exempt but chargeable to tax at a lower rate, then two consequences follow. Firstly, the provisions of section 14A shall cease to apply and secondly, the position will stand covered by the judgment in the case of Rajasthan State Warehousing Corporation (supra) for allowing the expenses in full without any apportionment. Section 14A does not provide that if income is liable to tax at a lower rate then also the proportionate expenditure should not be allowed as deduction against the other business income."

"...what has been inhibited by section 14A is the deduction of expenses incurred by the assessee in relation to income not at all chargeable to tax and not the income chargeable to tax at lower rate of tax. We, therefore, do not find any force in this submission advanced by the ld. DR."

6.1. The co-ordinate Bench thereafter concluded:

"55. The aforesaid decision of the co-ordinate bench has been upheld by the Hon'ble Jurisdictional High Court in ITA No. 1507 of 2013 decided on 17.08.2015. Even, identical view has been expressed by the co-ordinate in case of The Bank of Nova Scotia (supra). Thus, respectfully following the judicial precedents referred to above, we direct the A.O. to delete the disallowance."

6.2. The issue before us is identical. Nothing has been brought on record to demonstrate any material distinction in the facts or in law for the year under consideration. Respectfully following the order of the co-ordinate Bench in assessee's own case for A.Y. 1999-2000 (supra), which in turn follows the earlier years, we direct the Ld. AO to delete the disallowance of Rs. 2,65,54,550/-.

Accordingly, Ground No. 1 raised by the assessee is allowed.

7. Ground No. 2 raised by the assessee and Ground No. 2 raised by the Revenue arise out of the same transactions relating to interest received from and paid to the Head Office/overseas branches and are therefore adjudicated together.

7.1. During the year under consideration, the assessee received interest on NOSTRO accounts from its Head Office and overseas branches. The assessee treated the receipt as arising from self to self, on the principle that the Head Office and branch are not separate legal entities under the domestic law. Similar treatment was adopted in respect of interest paid to the Head Office/overseas branches.

7.2. On an appeal, the Ld.CIT(A) accepted the assessee's contention that the net interest received from the Head Office/overseas branches amounting to Rs.13,09,03,922/- was not chargeable to tax in the hands of the assessee, applying the principle of mutuality/tax neutrality.

The Revenue is aggrieved by the said finding.

7.3. However, having treated the corresponding receipt as not taxable, the Ld.CIT(A) invoked s.14A and disallowed interest expenditure of Rs. 26,79,74,011/- and administrative/NRI marketing expenditure of Rs. 5,91,49,521/-, aggregating to Rs. 32,71,23,532/-.

The assessee is aggrieved by this part of the order.

8. Before this *Tribunal*, the Ld.Sr.Counsel submitted that both facets of the dispute are squarely covered by the decision of coordinate bench of this Tribunal in assessee's own case for A.Y. 1999-2000 (*supra*). Reliance was also placed on the decision of *Hon'ble Special Bench* in case of *Sumitomo Mitsui Banking Corporation v. DDIT* reported in (2012) 19 taxmann.com 364 and

decision of *Hon'ble Special Bench* in case of *J.P. Morgan Chase Bank, N.A. (formerly The Chase Manhattan Bank) v. DCIT*, ITA No. 9189/Mum/2004 & CO No. 139/Mum/2013, order dated 10/10/2025.

We have perused the submissions advanced by both sides in light of the records placed before us.

9. On the first aspect, the co-ordinate Bench in assessee's own case for A.Y. 1999-2000 examined identical controversy and observed as under:

"9. We have considered rival submissions, in light of the decisions relied upon and perused the materials on record. It is evident, at the stage of assessment proceeding, the assessee had claimed that the interest received from the head office and overseas branches is not taxable in India under the domestic law as it is a receipt from self to self, hence, covered under the principles of mutuality... In case of Sumitomo Mitsui Banking Corporation (supra), a five-member Special Bench of ITAT has decided identical issue in favour of the assessee by holding that the interest received from and paid to head office and foreign branches is not taxable either at the hands of PE or at the hands of the head office or foreign branches, applying the principles of mutuality under the domestic law... Thus, respectfully following the judicial precedents referred to above, we uphold the decision of Id. First appellate authority while dismissing the ground."

9.1. Respectfully following the aforesaid decision, decision of *Hon'ble Special Bench* in case of *J.P. Morgan Chase Bank, N.A. (formerly The Chase Manhattan Bank) v. DCIT (supra)* there being no change in the material facts, we uphold the finding of the Ld.CIT(A) that interest arising from the transaction between the Indian PE and its Head Office/overseas branches, being a transaction with self under the domestic law, does not give rise to taxable income in the hands of the assessee.

Accordingly, Ground No. 2 raised by the Revenue is dismissed.

9.2. We now turn to the disallowance made u/s. 14A. The Special Bench in *J.P. Morgan Chase Bank, N.A. (supra)* considered the

precise question whether s.14A can apply where a receipt does not enter the computation of income because of the doctrine of mutuality. While following the said Special Bench, the co-ordinate Bench in assessee's own case for A.Y. 1999-2000 reproduced the following observations:

"10.10 The 'doctrine of mutuality' relates to a notion that a person cannot make profit from himself. An amount received from oneself is not regarded as 'income' and is therefore cannot be subjected to tax. Only such income that comes within the definition of sec. 2(24) of the Act is subject to tax."

"10.11. Now coming to the applicability of section 14A, it is noted that section 14A... was introduced only to deal with incomes which are exempt under specific provisions of the Act but are otherwise includable in total income..."

"10.12. Receipts under the principle of mutuality are of a different character. They are not exempt income but are simply not income at all. It thus naturally follows that section 14A has no application to such receipts."

"39. Thus, respectfully following the decision of ITAT, Special Bench as noted above, we direct the A.O. to delete the disallowance."

9.3. The aforesaid ratio applies on all fours to the facts before us. Once the interest received from the Head Office/overseas branches is regarded as a receipt from self and consequently does not constitute "income" under the domestic law, it cannot simultaneously be characterised as "exempt income" so as to trigger s.14A.

9.4. Accordingly, respectfully following the decision in assessee's own case for A.Y. 1999-2000 (supra) and the Special Bench decision in *J.P. Morgan Chase Bank, N.A.* (supra), we direct the Ld. AO to delete the disallowance of Rs. 32,71,23,532/- made u/s. 14A of the Act.

Accordingly, Ground No. 2 raised by the assessee is allowed.

10. Ground No.3 raised by the assessee challenges the disallowance of Rs.6,98,14,406/- representing loss arising on

revaluation of outstanding foreign exchange forward contracts as at 31/03/2000.

10.1 The assessee, being an authorised dealer in foreign exchange, follows the mercantile system of accounting. In accordance with the FEDAI guidelines, the assessee revalues its unmatured foreign exchange forward contracts at the end of each accounting year. Where the revaluation results in a gain, the same is recognised and offered to tax, whereas in case it results in a loss, the corresponding loss is claimed as expenditure.

10.2 For the year under consideration, the assessee claimed a loss of Rs.6,98,14,406/- on revaluation of outstanding foreign exchange contracts. The Ld.AO disallowed the claim by treating the same as a notional loss which, according to him, had not crystallised during the year.

10.3. The Ld.CIT(A) upheld the disallowance.

11. Before us, the Ld.Sr.Counsel submitted that the controversy stands settled by the decision of *Hon'ble Mumbai Special Bench* in case of *DCIT v. Bank of Bahrain & Kuwait* reported in (2010) 41 SOT 290. Reliance was also placed on the decision of *Hon'ble Supreme Court* in case of *CIT v. Woodward Governor India (P.) Ltd.* reported in (2009) 312 ITR 254 and *Bharat Earth Movers v. CIT* reported in [2000] 245 ITR 428.

11.1 The Ld.Sr.Counsel submitted that *Hon'ble Special Bench* in case of *Bank of Bahrain & Kuwait* (supra), after examining commercial accounting principles and the decision of the *Hon'ble Supreme Court* in *Woodward Governor India (P.) Ltd.* (supra), held that the issue concerning accrual of loss/expenditure has to be examined on the touchstone of reasonable certainty of an existing

obligation. The relevant observations, as relied upon by the assessee, are reproduced hereunder:

“43.1 We have to bear in mind that the issues relating to accrual of income cannot be decided on the same footing and considerations on which the issues relating to loss/expense is to be decided. In case of loss/expense, it is the concept of reasonable certainty to meet an existing obligation which comes into play which in legal terminology is said to be ‘crystallisation of liability’.”

“44. From the above discussion, it is evident that the anticipated losses on account of existing obligation as on 31st March, determinable with reasonable accuracy, being in the nature of expenditure/accrued liability, have to be taken into account while preparing financial statements.”

11.2 The Ld.DR supported the orders of the authorities below.

We have perused the submissions advanced by both sides in light of records placed before us.

12. The consistent accounting treatment adopted by the assessee assumes significance. It is not the Revenue’s case that only losses arising on revaluation are recognised while corresponding gains are ignored. The assessee revalue the outstanding forward contracts at the yearend and recognises both gains and losses on the same basis.

12.1. The *Hon’ble Supreme Court* in *Woodward Governor India (P.) Ltd.* (supra) recognised the principle that where an assessee follows the mercantile system of accounting, a liability arising on account of foreign exchange fluctuation as at the balance-sheet date cannot be regarded as merely notional merely because actual settlement would take place subsequently. Likewise, in *Bharat Earth Movers* (supra), the *Hon’ble Supreme Court* explained that if a business liability has definitely arisen during the accounting year, deduction cannot be denied merely because its discharge is postponed to a future date.

12.2. The Special Bench in *Bank of Bahrain & Kuwait* (supra), applying the aforesaid principles to outstanding foreign exchange forward contracts, held that loss determined on a recognised and consistently followed method, in respect of an existing obligation as at the balance-sheet date, is allowable where the liability is capable of reasonable estimation.

12.3. Applying the above principles to the facts before us, we are unable to sustain the view that the impugned loss is merely contingent or notional. The obligation under the outstanding forward contracts existed as at the year end and its valuation is based on a consistently followed method by the assessee.

12.4. Accordingly, respectfully following *DCIT v. Bank of Bahrain & Kuwait* (supra), *CIT v. Woodward Governor India (P.) Ltd.* (supra) and *Bharat Earth Movers v. CIT* (supra), we direct the Ld. AO to delete the disallowance of Rs. 6,98,14,406/-.

Accordingly, Ground No. 3 raised by the assessee is allowed.

13. Ground No. 4 raised by the assessee concerns global system charges of Rs. 4,24,18,272/-, whereas Ground No. 4 raised by the Revenue concerns the balance Head Office expenditure of Rs. 2,76,47,618/- allowed by the Ld. CIT(A).

Both these arise from expenditure incurred/allocated by the Head Office/overseas branches for the Indian PE, the grounds are considered together.

13.1 Insofar as the global system charges are concerned, the Ld.CIT(A) treated the same as being in the nature of royalty and consequently invoked s.40(a)(i) for failure to deduct tax at source u/s. 195.

13.2 As regards the other Head Office expenditure of Rs. 2,76,47,618/-, the Ld. CIT(A) held that the same was specifically incurred for employees/personnel working for the Indian branches and therefore fell outside s.44C.

The Revenue is in appeal against the said relief.

14. The Ld.Sr.Counsel submitted that allocation of global system/data-processing charges by the Head Office to its own Indian PE does not generate income in the hands of a different person, the Head Office and branch constituting the same legal entity. It was accordingly submitted that s.195 is not attracted and, consequently, there can be no disallowance u/s. 40(a)(i).

14.1 Without prejudice, it was submitted that the global system charges do not constitute “royalty”. Reliance was placed upon *Asia Satellite Telecommunications Co. Ltd. v. DIT* [2011] 332 ITR 340 (Delhi); 197 Taxman 263 (Delhi); 9 taxmann.com 168 (Delhi) and *ADIT v. Antwerp Diamond Bank NV Engineering Centre* [2014] 44 taxmann.com 175 (Mum.-Trib.), wherein reimbursement of data-processing cost where the Indian branch had no independent right to use the underlying software was held not to constitute royalty. We have perused the submissions advanced by both sides in light of records placed before us.

14.2. We find that substantially the same controversy relating to direct Head Office expenses and global system charges arose in assessee’s own case for A.Y. 1999-2000 (supra).

14.3. Before proceeding further, it is relevant to notice the subsequent decision of *Hon’ble Supreme Court* in case of *Director of Income Tax (IT)-I, Mumbai v. American Express Bank Ltd.*, reported in (2025) 181 taxmann.com 433 (SC). *Hon’ble Supreme Court* held that s.44C does not make any distinction merely on the basis that

the expenditure is “common” or “exclusive”; however, the expenditure must first satisfy the statutory definition of “head office expenditure”.

14.4. While following the aforesaid judgment in assessee’s own case for A.Y. 1999-2000, the co-ordinate Bench summarised the applicable test as under:

“19. As could be seen from the aforesaid observation of Hon’ble Supreme Court, there cannot be any artificial distinction between common and exclusive head office expenditure... However, at the same time, the Hon’ble Apex Court has put a rider by observing that an item expenditure to qualify as ‘head office expenditure’ must satisfy the following three ingredients:

- (a) expenditure must be incurred outside India;*
- (b) the expenditure must be in the nature of executive and general administration as a broad genus;*
- (c) such executive and general administration expenditure must fall within the specific species enumerated in clauses (a), (b), and (c), or expressly prescribed under clause (d) of Explanation u/s. 44C of the Act.”*

14.5 After examining the nature of the Head Office expenditure, the co-ordinate Bench further observed:

“22... the nature and character of the expenditure has to be identified for determining whether they qualify as ‘head office expenditure’ in terms of clause (iv) of Explanation to section 44C of the Act... Since, such identification requires detailed factual analysis of the expenditure incurred by the assessee which has not been done either at the stage of assessment or by Id. First appellate authority... in our view, the issue requires fresh examination at the end of the A.O., after analysing in detail the nature of expenditure.”

“23. In view of the aforesaid, we are inclined to restore the issue to the A.O. for de novo adjudication, keeping in view the ratio laid down by the Hon’ble Supreme Court in the decision referred to above.”

8.9 Insofar as the global system charges were concerned, the co-ordinate Bench in the same order specifically held:

“49... at the first instance, the nature and character of expense, whether falls within the meaning of head office expenses in terms with clause (iv) under Explanation to section 44C of the Act has to be determined... In case, it is found that the expenditure does not fall within the ambit of head office expenses, as defined u/s. 44C of the Act, then only the issue, whether the payment made is in the nature of royalty or not can be examined... Accordingly, we restore the issue to the A.O. for fresh examination.”

14.6. The controversy before us being materially similar, consistency requires the same course to be adopted. Further, our

adjudication notes also contemplate restoration of the s.44C issue to the Ld.AO for necessary verification, including the interconnected data-processing/global-system component.

Accordingly, we set aside the findings of the Ld. CIT(A) on these aspects and restore Ground No. 4 raised by the assessee as well as Ground No. 4 raised by the Revenue to the file of the Ld. AO for de novo adjudication.

14.7. The Ld. AO shall first identify the precise nature and character of each component of the expenditure and determine whether the same satisfies the requirements of “head office expenditure” within the meaning of the Explanation to s.44C, keeping in view the ratio laid down by the *Hon’ble Supreme Court* in *Director of Income Tax (IT)-I, Mumbai v. American Express Bank Ltd.* (supra).

14.8. In the event the global system/data-processing charges are found not to fall within the ambit of s.44C, the Ld. AO shall thereafter examine, independently and in accordance with law, the assessee’s contention regarding the applicability of ss.195 and 40(a)(i), including its contention that the payment does not constitute royalty, after considering *Asia Satellite Telecommunications Co. Ltd. v. DIT* (supra), *ADIT v. Antwerp Diamond Bank NV Engineering Centre* (supra) and such other binding precedents as may be relied upon. Needless to mention, reasonable opportunity of being heard shall be afforded to the assessee before deciding the issue.

Accordingly, Ground No. 4 raised by the assessee and Ground No.4 raised by the Revenue are allowed for statistical purposes.

Revenue's Appeal

15. Ground No. 1 raised by the Revenue challenges the deletion of disallowance of Rs.1,00,12,163/- made u/s. 14A in respect of income exempt u/s. 10(33) and 10(15) of the Act by the Ld CIT(A).

15.1. The Ld.Sr.Counsel submitted that the assessee possessed sufficient interest-free own funds substantially in excess of the investments yielding exempt income and that the Ld.AO had not established any direct nexus between borrowed funds and such investments. It was submitted that identical issue stands was considered by coordinate bench in assessee's own case for A.Y. 1999-2000 (supra).

15.2. The Ld.DR relied upon the assessment order.

We have perused the submissions advanced by both sides in light of records placed before us.

16. Identical controversy came up before the co-ordinate Bench for A.Y. 1999-2000. It is noted that the Ld.CIT(A) therein examined the assessee's financial position from 31/03/1993 to 31/03/2001 and recorded that sufficient surplus interest-free funds were available throughout. The co-ordinate Bench thereafter held as under:

"29. Having considered rival submissions and perused the materials on record, we do not find any infirmity in the decision of the ld. First appellate authority as it is purely factual. Now, it is fairly well settled that when the assessee has kitty of mixed funds available with it comprised of both interest free and interest-bearing funds, the presumption would be the interest free funds have been utilized for investments in exempt income yielding assets. In case of South Indian Bank Ltd. vs. Commissioner of Income Tax [2021] 130 taxmann.com 178, the Hon'ble Supreme Court has approved the aforesaid line of reasoning. In view of the aforesaid, we uphold the decision of ld. First appellate authority."

16.1. The Hon'ble Supreme Court decision referred to therein is *South Indian Bank Ltd. v. CIT* reported in (2021) 438 ITR 1, wherein the principle that investments are presumed to have been made

from interest-free funds where such funds exceed the relevant investments was affirmed.

16.2. The factual position and nature of controversy being identical, and no distinguishing feature having been brought to our notice, we respectfully follow the view taken by the coordinate bench of this Tribunal in assessee's own case for A.Y. 1999-2000 (supra) and do not find any infirmity in the view taken by the Ld. CIT(A).

Accordingly, Ground No. 1 raised by the Revenue is dismissed.

17. Ground No.3 raised by the Revenue challenges the allowance of broken-period interest amounting to Rs. 10,67,69,760/-.

The Ld.Sr.Counsel submitted that the securities were held in the course of the assessee's banking business and the broken-period interest paid to the seller was consistently treated as revenue expenditure.

17.1. It is submitted that this controversy stands settled in favour of the assessee by *American Express International Banking Corporation v. CIT* [2002] 258 ITR 601 (Bom.) and the order of the Hon'ble Supreme Court in *CIT v. Citi Bank N.A., Civil Appeal No. 1549 of 2006*, judgment dated 12/08/2008, which were followed in assessee's own case for A.Y. 1999-2000. We find that the co-ordinate Bench, while deciding the identical issue for A.Y. 1999-2000, held as under:

"33. We have considered rival submissions and perused the materials available on record. The issue is no more *res integra* in view of the decision of the Hon'ble Supreme Court, Hon'ble Jurisdictional High Court and the ITAT on identical issue, in case of *CIT vs. Citi Bank N.A. (Civil Appeal No. 1549 of 2006 vide order dated 12.08.2008)*. The Hon'ble Supreme Court while confirming the view expressed by the Hon'ble Bombay High Court in case of *American Express International Banking Corporation vs. CIT (supra)* has held that the broker period interest is allowed as deduction. Thus, respectfully, following the decisions of Hon'ble Jurisdictional High Court and Hon'ble Supreme Court, we uphold the decision of ld. first appellate authority on this issue."

17.2. Respectfully following the aforesaid binding precedents and the decision in assessee's own case for the immediately preceding assessment year, we find no infirmity in the order of the Ld. CIT(A).

Accordingly, Ground No. 3 raised by the Revenue is dismissed.

18. Ground No.5 raised by the Revenue relates to the expenditure of Rs.11,40,80,000/- incurred by the assessee under the Voluntary Retirement Scheme ("VRS").

18.1. The Ld.AO treated the expenditure as capital in nature and disallowed the claim.

18.2. On appeal, the Ld.CIT(A), relying upon the principles laid down by the *Hon'ble Supreme Court in Employers in Relation to the Management of Indian Cable Co. Ltd. v. Their Workmen, AIR 1972 SC 2195; (1974) 3 SCC 11*, held in favour of the assessee and directed deletion of the disallowance.

19.1 Before us, the Ld.Sr.Counsel submitted that VRS expenditure incurred for rationalisation/reduction of the workforce is revenue expenditure incurred in the course of the existing business and does not result in acquisition of any capital asset or advantage in the capital field. Reliance was placed on the decision of *Hon'ble Bombay High Court* in case of *CIT v. Bhor Industries Ltd.* reported in (2003) 264 ITR 180 and decision of *hon'ble Madras High Court* in case of *CIT v. Simpson & Co. Ltd.* reported in (1998) 230 ITR 794. He submitted that *Hon'ble Bombay High Court* in *Bhor Industries Ltd.(supra)* held VRS expenditure incurred to save recurring expenses to be allowable revenue expenditure.

19.2. It was further submitted that Section 35DDA was not applicable to the assessment year under consideration, A.Y. 2000-01. He submitted that Section 35DDA was introduced

subsequently by the Finance Act, 2001 with effect from 01/04/2001. Prior to its introduction, VRS expenditure was governed by the existing judicial principles u/s 37.

19.3. The Ld.DR relied upon the assessment order and submitted that the VRS expenditure resulted in an enduring benefit to the assessee and was therefore capital in nature.

We have perused the submissions advanced by both sides in light of records placed before us.

20. In *CIT v. Bhor Industries Ltd.* (supra), Hon'ble Bombay High Court dealt with VRS expenditure incurred for reduction of recurring employee cost and held that such expenditure did not result in acquisition of an income-yielding asset and was allowable as revenue expenditure in the year of incurrence. Similarly, in *CIT v. Simpson & Co. Ltd.* (supra), payment made under a voluntary retirement scheme was held deductible as business expenditure.

20.1. In the present case, there is nothing on record to demonstrate that by incurring the expenditure under the VRS, the assessee acquired any new asset or any new source of income in the capital field. The expenditure arose in relation to the existing workforce and was incurred in the course of carrying on the existing banking business.

20.2 Further, for A.Y. 2000-01 there was no statutory provision corresponding to s.35DDA requiring the VRS expenditure to be amortised over the prescribed period. The allowability of the expenditure therefore has to be considered in accordance with the ordinary principles governing business expenditure prevalent for the relevant year.

20.3. In view of the above and respectfully following *CIT v. Bhor Industries Ltd.* (supra), *CIT v. Simpson & Co. Ltd.* (supra) and

Employers in Relation to the Management of Indian Cable Co. Ltd. v. Their Workmen (supra), we find no infirmity in the conclusion reached by the Ld. CIT(A).

Accordingly, Ground No. 5 raised by the Revenue is dismissed.

In the result, appeal filed by the assessee and revenue stands partly allowed.

Order pronounced in the open Court on 08/10/2026.

Sd/-
BIJAYANANDA PRUSETH
ACCOUNTANT MEMBER

Sd/-
BEENA PILLAI
JUDICIAL MEMBER

Mumbai
Dated: 08/10/2026
Shamik Sr. P.S.

IMPARTIAL, EASY AND
SPEEDY JUSTICE

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M/S AMERICAN EXPRESS BANK LTD. FORT HOUSE, 1 ST FLOOR, 221, D.N.ROAD. , MUMBAI-400001, MAHARASHTRA	THE JT DIT (IT)1(1) SCINDIA HOUSE, 1 ST FLOOR, BALLARD ESTATE MUMBAI-400038, MAHARASHTRA

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SR. PRIVATE SECRETARY
I.T.A.T., MUMBAI**