

CBDT clarifies on interest earned by banks on investments in non-SLR securities

Accepting the Supreme Court's stance, the Central Board of Direct Taxes (CBDT) has clarified that interest earned by banks on investments in "non-SLR" securities will be taxed only as "business income", not as "income from other sources".

The fallout of this CBDT stance is that the Income Tax Department cannot "disallow", for income tax purposes, the expenses incurred by banks for earning income from non-SLR (statutory liquidity ratio) securities.

Investments in non-SLR securities cannot be considered eligible for SLR requirement, which is the reserve requirement that Indian banks are required to maintain in the form of gold or government securities before extending credit to customers.

The move is expected to benefit banks, as it brings certainty to tax treatment on income earned from investments in "non-SLR" securities. In the absence of this clarity, many field officers were taking the stance that such income of banks was to be taxed as only "income from other sources" and therefore "disallowed" all expenses incurred by banks for earning this income.

The Tax Department was routinely filing appeals when banks were treating such income as "business income". The CBDT has now clarified that the Supreme Court's decision in CIT Vs Nawanshahar Central Cooperative Bank Ltd case — although given in the context of cooperative banks — is equally applicable to all banks/commercial banks, to which the Banking Regulation Act 1949 applies.

In light of the apex court's decision, the CBDT has directed its field formations not to file appeals on this ground. Also, appeals already filed may be withdrawn, the CBDT has said in a circular.

'Positive move'

"This (CBDT clarification) is a positive move to reduce litigation and would give certainty to banks on the tax treatment," Rakesh Nangia, Managing Partner, Nangia & Co, a chartered accountancy firm, told *BusinessLine* here.

Amit Maheshwari, Partner, Ashok Maheshwary & Associates, a CA firm, said this was a "pragmatic stand" by the CBDT to avoid unnecessary litigation and going an extra mile to provide certainty for all banks.

The existing law provides that income by way of interest on securities would be taxed under the head "income from other sources" if it not chargeable under the head "profit and gains of business and profession".

The apex court had in the CIT Vs Nawanshahar Central Cooperative Bank Ltd case said that investments made by a banking concern are part of the banking business and, therefore, the

income arising from such investments was attributable to the business of banking, falling under the head “profits and gains of business and profession”.

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