$~27, 54 to 58

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

\+ ITA 140/2023

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL TAXATION -2 .....Appellant

Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann, JSC and Ms. Aditi Sabharwal, Adv.

versus

THE BANK OF TOKYO -MITSUBISHI UFJ LTD. .....Respondent

Through: Mr. Percy Pardiwala, Sr. Adv. with Mr. Hiten Thakkar and Mr. Nikhil Ranjan, Advs.

54

\+ W.P.(C) 13432/2023

MUFG BANK LTD .....Petitioner

Through: Mr. Percy Pardiwala, Sr. Adv. with Mr. Hiten Thakkar and Mr. Nikhil Ranjan, Advs.

versus

COMMISSIONER OF INCOME TAX-2 & ANR. .....Respondents

Through: Mr. Vipul Agrawal, SSC with Ms. Sakshi Shainwal, Adv. for Revenue.
Mr. Vikrant N. Goyal and Mr. Nitin, Advs. for R-4/UOI.

55

\+ W.P.(C) 13441/2023

MUFG BANK LTD. .....Petitioner

Through: Mr. Percy Pardiwala, Sr. Adv. with Mr. Hiten Thakkar and Mr. Nikhil Ranjan, Advs.

versus

COMMISSIONER OF INCOME TAX - 2 & ANR.
.....Respondents

Through: Mr. Vipul Agrawal, SSC with Ms. Sakshi Shainwal, Adv. for Revenue.
Mr. Vikrant N. Goyal and Mr. Nitin, Advs. for R-4/UOI.

56

+ W.P.(C) 13442/2023

MUFG BANK LIMITED .....Petitioner

Through: Mr. Percy Pardiwala, Sr. Adv. with Mr. Hiten Thakkar and Mr. Nikhil Ranjan, Advs.

versus

COMMISSIONER OF INCOME TAX & ORS.
.....Respondents

Through: Mr. Vipul Agrawal, SSC with Ms. Sakshi Shainwal, Adv. for Revenue.
Mr. Vikrant N. Goyal and Mr. Nitin, Advs. for R-4/UOI.

57

+ W.P.(C) 13452/2023

MUFG BANK LTD .....Petitioner

Through: Mr. Percy Pardiwala, Sr. Adv. with Mr. Hiten Thakkar and Mr. Nikhil Ranjan, Advs.

versus

COMMISSIONER OF INCOME TAX 2 & ANR.
.....Respondents

Through: Mr. Vipul Agrawal, SSC with Ms. Sakshi Shainwal, Adv. for Revenue.
Mr. Vikrant N. Goyal and Mr.

Nitin, Advs. for R-4/UOI.

58

\+ W.P.(C) 13458/2023

MUFG BANK LTD .....Petitioner

Through: Mr. Percy Pardiwala, Sr. Adv. with Mr. Hiten Thakkar and Mr. Nikhil Ranjan, Advs.

versus

COMMISSIONER OF INCOME TAX-2 & ANR. .....Respondents

Through: Mr. Vipul Agrawal, SSC with Ms. Sakshi Shainwal, Adv. for Revenue.
Mr. Vikrant N. Goyal and Mr. Nitin, Advs. for R-4/UOI.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% 25.02.2025

1. We take note of the following two principal questions on which the appeal came to be admitted by us on 10 March 2023 in ITA No. 140/2023:

> "(i) Whether the Tribunal erred in deleting the addition amounting to Rs.80,07,24,528/- against interest received by head office/foreign branches on ECBs extended to Indian Borrowers?
>
> (ii) Whether, in the facts and circumstances of the case, the Tribunal erred in not appreciating that the interest under Section 234D of the Income Tax Act, 1961 [in short, "the 1961 Act"] had been correctly computed by the Assessing Officer, since the amount refundable under Section 143(1) of the 1961 Act, exceeded the amount to be refunded upon regular assessment? "

2. However, Mr. Pardiwala, learned senior counsel representing the respondent/assessee, draws our attention to the challenge which

forms part of W.P.(C) 13432/2023, W.P.(C) 13441/2023, W.P.(C) 13442/2023, W.P.(C) 13452/2023 and W.P.(C) 13458/2023, and submits that in case the assessee were to succeed in those writ petitions, the instant appeal would have to be withdrawn.

3. Consequently, let the aforesaid writ petitions be called on 28.03.2025 for consideration.

4. The appeal i.e. ITA 140/2023 be listed separately thereafter on 21.04.2025.

YASHWANT VARMA, J.

GIRISH KATHPALIA, J.

FEBRUARY 25, 2025/DR