

The Royal Bank of Scotland, N.V. v. Director of Income Tax, International Taxation, Kolkata

ITA 439 of 2007 with GA 1 of 2014 (Old No. 3329 of 2014)

ITA 439 of 2007 (Cal HC, decided 22.09.2026) | 2026-09-22

Automated Teller Machines (ATMs) qualify as 'computers' under Item 2B of Appendix I to the Income-tax Rules for higher depreciation (Question 4 answered for assessee), while foreign-bank tax rate, branch-to-HO interest disallowance u/s 40(a)(i), and HO-to-branch interest taxability are answered for Revenue (Questions 1–3).

Income-tax Act, 1961: sections 2(22A), 2(23A), 32, 40(a)(i), 90 Explanation 1, 195 and 260A | Income-tax Rules, 1962: Appendix I, Item 2B ('Computers'); India-Netherlands DTAA: Articles 7 and 24(2)

High Court at Calcutta | 2-judge bench (Division Bench) | Rajarshi Bharadwaj, J. | Uday Kumar, J.

Assessment years: 2002-03

Internal typographical variants in paragraphs 2, 5 and 12 of the printed order

While paragraphs 1, 4, 22 and 24 expressly identify the appeal year as Assessment Year 2002-03, paragraph 2 prints 'Assessment Year 2003-04', paragraph 5 mentions 'six substantial questions of law covering the tax rate, interest deductions, lease rental classifications and ATM depreciation' whereas paragraph 6 reproduces and the judgment adjudicates four questions (i to iv), and paragraph 12 repeats the 'Rs. 99,77,325/-' figure from the AY 1999-2000 companion appeal. Verify the underlying AY 2002-03 computation before citing quantum figures.

01 FACTS OF THE CASE

The appellant, Royal Bank of Scotland N.V. (formerly ABN Amro Bank N.V., a Netherlands banking company operating in India through a branch PE), appealed against the ITAT Kolkata 'C' Bench order dated 09.03.2007 for AY 2002-03 on four admitted substantial questions of law: (1) applicability of domestic-company tax rate under section 2(22A), section 90 and Article 24(2) of the India-Netherlands DTAA; (2) deductibility of interest paid by the Indian PE to its head office and overseas branches without TDS under section 40(a)(i); (3) exclusion of interest received by the Indian PE from its head office and overseas branches; and (4) entitlement to higher depreciation rate on Automated Teller Machines (ATMs) by treating ATMs as 'computers' under Item 2B of Appendix I to the Income-tax Rules, 1962.

Source: [Paragraphs 1-6; PDF pp. 1-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench answered Questions (1), (2) and (3) in the affirmative in favour of the Revenue (holding that a foreign company taxed only on Indian-source income is not in the 'same circumstances' as a domestic company under Article 24(2) read with Explanation 1 to section 90; that branch-to-HO interest claimed under the separate-entity fiction of Article 7(3) attracts section 40(a)(i) disallowance if section 195 TDS is not deducted; and that HO-to-branch interest received by the PE is taxable business income). However, on Question (4) regarding ATM depreciation (paragraphs 21-23), the Court held in favour of the assessee: an ATM is not merely a mechanical cash dispenser, but a complex digital data-processing unit relying on internal processing hardware, specialised software and continuous network communication with central banking servers. Because its core functional utility in modern banking is electronic data processing and transmission, an ATM has functional parity with a 'computer' under Item 2B of Appendix I to the Income-tax Rules and qualifies for the higher depreciation rate.

Source: [Paragraphs 8-24; PDF pp. 4-9](#)

03 JUDICIAL DECISION

Allowing the appeal in part, the High Court answered substantial questions (1), (2) and (3) in the affirmative in favour of the Revenue and substantial question (4) (ATM depreciation as computer) in the negative in favour of the appellant-assessee, modifying the ITAT order dated 09.03.2007 and directing the Assessing Officer to grant consequential relief for AY 2002-03.

Source: [Paragraphs 23-25; PDF pp. 8-9](#)

04 OUTCOME / IN WHOSE FAVOUR

Partly in favour of the assessee (Royal Bank of Scotland, N.V.) and partly in favour of the Revenue: Question 4 answered for the assessee allowing higher computer depreciation on ATMs; Questions 1, 2 and 3 answered for the Revenue.

Source: [Paragraphs 23-24; PDF pp. 8-9](#)

05 AKHB REVIEW POINT

AKHB analysis: paragraphs 21-23 provide a clear functional-utility test under section 32 and Appendix I Item 2B for classifying banking ATMs and similar network-linked automated terminals as 'computers' eligible for higher computer depreciation rather than general plant and machinery.

Source: [AKHB analysis based on paragraphs 21-24 / PDF pp. 7-9](#)

SOURCE & VERIFICATION

[Calcutta High Court official judgment PDF - AKHB Cloud Repository](#)

Nine-page official Calcutta High Court judgment PDF (Form No. J(2), Original Side) in ITA 439 of 2007; paragraphs 1-26 span PDF pages 1-9.

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

Open cited source rendition

Full 9-page official Calcutta High Court PDF read and verified. Original bytes match SHA-256 21d302ce32ecf658b797a68aa9718e3460d64f9f69c63c0c9aad58b7bc8f021a.

STATUTORY SCOPE

Applies sections 2(22A), 2(23A), 32, 40(a)(i), 90 Explanation 1 and 195 of the Income-tax Act, 1961 read with Item 2B of Appendix I to the Income-tax Rules, 1962 and Articles 7 and 24(2) of the India-Netherlands DTAA for AY 2002-03. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-17. Full judgment checked. Cites Royal Bank of Scotland N.V. v. CIT, (2026) 494 ITR 171 (Cal). Note also that companion appeal ITA 191 of 2006 (20260922_WBCHCO0021802006.pdf) decided on the same date involves identical AY 1999-2000 questions already covered in ITA 257 of 2007 (hc-cal-2026-09-22-royal-bank-of-scotland). Comprehensive subsequent judicial treatment has not been verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.