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), 40(a)(i), 90, 195, 260A | India-Netherlands DTAA: Articles7,7(3),24(2) | Income-tax Rules: AppendixI, Item2B

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

Assessment years: 2002-03

Internal assessment-year discrepancy

Paragraph 2 prints AY 2003-04; paragraph 1, paragraph 4 and operative paragraph 24 identify AY 2002-03. The caption identifies ITA 439/2007. The record follows those express identifiers and retains the discrepancy.

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: PDF pp.1–3, paras 1–6

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: PDF pp.4–8, paras 8–23

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: PDF pp.8–9, para 24

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: PDF p.9, paras 24–25

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis.

Rate and profit computation use different tests: Article7's separate-enterprise approach did not turn the Netherlands bank into a domestic company for the tax-rate question. The Court applied the section90 explanation and Article24(2) separately from branch-profit computation. (PDF pp.4–6, paras8–15)

Expense disallowance does not determine receipt character: Paid interest was disallowed for TDS non-compliance, not because every head-office transaction was nonexistent. The Court therefore rejected automatic exclusion of received interest. Any symmetry argument must address the actual basis of the expense disallowance. (PDF pp.6–7, paras15–20)

ATM classification turns on function: Processing, specialised software and network communication supported computer classification. The judgment states no numerical depreciation rate. Its reasoning requires attention to the equipment's functions rather than merely its banking use. (PDF pp.7–8, paras21–23)

Implement the mixed result for the correct year: For AY2002-03, only question4 succeeded; questions1–3 went to Revenue. The consequential order must follow that split. Paragraph5 mentions six questions and lease history, but the four reproduced questions and operative answers supply no additional lease holding. (PDF pp.2–3, paras5–6; pp.8–9, para24)

Source: PDF pp.4–6, paras8–15

SOURCE & VERIFICATION

Calcutta High Court official judgment PDF - AKHB Cloud Repository

Complete 9-page original reviewed; SHA-256 verified.

Full source and panel review:21 October2026.

Open cited source rendition

All original pages and five panels checked; separate docket and assessment year retained.

STATUTORY SCOPE

Only provisions expressly stated in this order are indexed. Subsequent treatment and current law have not been independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently 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.

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