

## **HC allowed provision made for interest on overdue deposits as liabilities crystallized in current yr**

**Summary – The High Court of Delhi in a recent case of Oriental Bank of Commerce., (the Assessee) held that where assessee bank made provision for interest on overdue deposits, same being ascertained liabilities as crystallized during relevant previous year, was to be allowed**

### **Facts**

- The assessee was a scheduled bank. It had in its return claimed an ascertained liability of Rs. 17 crores towards the interest on overdue deposits.
- The Assessing Officer was of the opinion that the liability was not in present time and had not crystallized or arisen and, therefore, had to be disallowed.
- On appeal, the Commissioner (Appeals) allowed the appeal filed in the light of the previous year's observations that there was no dispute that interest was liable to be paid by the appellant to the depositors on these time deposits. Therefore, it was clear that above liabilities were definite liabilities and that the assessee was bound to act as per the RBI Circular.
- On second appeal, the Tribunal opined that the expenditure was unascertained and the liability was uncrystallized. Therefore, the Tribunal, without recording its own conclusion on this aspect, remitted the matter to the Assessing Officer.
- On appeal to the High Court:

### **Held**

- In this case, there can be no doubt that the assessee/bank was not only aware of its liability on the particular aspect, but, in fact, was able to crystallize it and set it out expeditiously in its returns. The possibility of likelihood of the depositor renewing the overdue deposits or for that matter, the payment being made later, in no way deflects from the reality that the assessee is able to identify its liability at the time, when it filed its returns. In that sense, the liability was ascertained and not unascertained. Thus, in the facts and circumstance of the case, the Tribunal was not correct in law in remanding the issue relating to interest on overdue deposits back to the file of the Assessing Officer. The Tribunal was also not correct in law in holding that the claim of the appellant with respect to provision made for interest on overdue deposits was not acceptable until it was ascertained that the actual payment of the provision had been made to the customers or not. Consequently, the question of law is answered in favour of the assessee and against the revenue.