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No write-down of fixed-interest securities below nominal value

The supreme Tax Court has held that a bank cannot write down its fixed-interest securities held as current assets below their nominal (redemption) value, not withstanding a lower market value at balance sheet date.

A bank held a significant portfolio of debentures and other fixed-interest securities as current assets. It took them up initially at cost but wrote them down in its annual accounts to the lower stock market value on balance sheet date. This treatment was correct under the accounting provisions of the Commercial Code, but the tax office refused to accept it to the extent that the write-down took the net book value below the nominal amount. It argued that the valuation provisions of the Income Tax Act only allowed a write-down as necessary to reflect a “foreseeably lasting” loss in value. Fixed-interest securities were generally redeemable at the end of a fixed term and at their nominal value. Thus any current loss below this level could not be “lasting”.

The Supreme Tax Court has now held with the tax office and for the same reason. The bank argued that securities held as current asset were for trading and there was no reason to suppose that they would be held until redemption. The court, though, pointed out that there was also no reason to suppose that they would be sold before redemption. This unknown destiny meant that the loss in market value at balance sheet date might, or might not, be “lasting”, but its ultimate incidence was certainly not “foreseeable”. This departure of tax law from the Commercial Code was emphasised with the recent ”BilMoG” accounting reform, which required marketable securities to be carried at market value on balance sheet date, abolished the strict conformity of the taxable income and accounting profit, but which did not change the tax valuations rules in a here relevant respect. Clearly, a divergence in treatment was intentional.

This remark suggests that this case is still relevant after BilMoG. Equally significantly, the court made the comment that doubts as to the ultimate redemption of a fixed-interest security could justify a write-down below the redemption value. Thus the bottom limit of the nominal value can be overstepped, if it appears likely that the ultimate sale or redemption proceeds will, in fact, be less.

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Keywords

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