IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1662 OF 2013
ALONG WITH
INCOME TAX APPEAL NO. 1421 OF 2013
AND
INCOME TAX APPEAL NO. 1663 OF 2013

Director of Income Tax (IT)-I, Mumbai … Appellant in all appeals.

v/s

M/s.Credit Lyonnais … Respondent in all appeals.

Mr.Tejveer Singh for the appellant.

Mr.P.J. Pardiwalla with M. Agarwal i/by A.K. Jasani for the respondent.

CORAM: M.S. SANKLECHA &
N.M. JAMDAR, JJ.

DATED : 22ND JULY, 2015

P.C.:

These appeals by the revenue assail the order dated 21 September 2012 passed by the Income Tax Appellate Tribunal (the Tribunal). Income Tax Appeal No.1662 of 2013 is in respect of 1998-1999, Income Tax Appeal No.1421 of 2013 is in respect of Assessment Year 1999-2000 and Income Tax Appeal No.1663 of 2013 is in respect of 2000-2001.

2 Mr.Tejveer Singh, learned counsel appearing for the revenue urges the following modified questions of law for our consideration :-

(1) Whether in the facts and in the circumstances of the case and in law the Tribunal was justified in holding that interest earned/received from its own head office/ overseas branches is not chargeable to tax in computing the total income ?

(2) Whether on the facts and in the circumstances of the case and in law the Tribunal has erred in holding that no disallowance out of interest expenditure can be made for earning exempt income without appreciating that once introduced in business the interest bearing funds and non-interest bearing funds lose their color and merge ?

3 So far as question No.1 is concerned, it is an agreed position between the parties that the issue arising herein stands concluded by the decision of this Court in Income Tax Appeal No.1430 of 2013 (Director of Income Tax (IT)-1, Mumbai v/s M/s. Credit Agricole Indosuez) rendered on 17 June 2015. In the above order, question No.5 as formulated therein, is identical to the question herein. Accordingly, for the reasons indicated in our order dated 17 June 2015 in Income Tax Appeal No.1430 of 2013, we see no reason to entertain question No.1.

4 So far as question No.2 is concerned, the impugned order upholds the order of the Commissioner of Income Tax (Appeals) holding that the total investment in tax free bonds and shares was Rs.8.75 crores from which exempt income was earned. The above investment was from the interest free funds available with the respondent-assessee. On facts, it was found that the respondent-assessee had capital and reserve funds available at Rs.58.34 crores apart from the additional interest free funds. The amounts invested in the tax free bond/shares were Rs.8.75 crores. The impugned order also placed reliance upon the decision of this Court in the case of ***C.I.T. v/s Reliance Utilities and Power Ltd.***, reported in ***(2009) 313 I.T.R. 340***, that there would be a presumption where both interest free funds and interest bearing funds available with the assessee, then the investments have been made out of interest free funds. Therefore, no disallowance can be made on account of payment of interest.

5 In the above view, question No.2 as formulated, does not give rise to a substantial question of law and is not entertained. Accordingly, appeal dismissed. No order as to costs.

(N. M. JAMDAR, J.) ***(M.S. SANKLECHA, J.)***