IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.2.2015

CORAM

THE HON'BLE MR.JUSTICE R.SUDHAKAR
AND
THE HON'BLE MR.JUSTICE R.KARUPPIAH

T.C.(A).Nos.1207 and 1208 of 2007

Commissioner of Income Tax
Chennai. .. Appellant/Respondent

Vs.

ICICI Bank Ltd.
(Erstwhile Bank of Madura Ltd.)
Karamuthu Nilayam
192, Anna Alai
Chennai - 600 002. .. Respondent/Appellant

PRAYER: Appeals under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai, dated 27.10.2006 made in Int.T.A.No.194 and 195 (Mds)/2003 for the the assessment years 1998-1999 and 1999-2000 against the order of the Deputy Commissioner of Income Tax Company circle I (2) (i/c), Chennai-1 dated 19.02.2003 and made in G.I.No./PAN BX 2-001/AAACB 2929F for the assessment years 1998 99 and 1999-2000;

against the order of the Commissioner of Income-Tax (Appeals)-III, 121 Mahtma Gandhi, Road, Chennai 600 034, dated 24.03.2003 and made in Ist T.A.No.10&11/2003-04/A-III for the Assessment years 1998-99 and 1999-2000.

For Appellant : Mr.T.Ravi Kumar
Sr. Standing Counsel

For Respondent : Mr.Venkat Narayanan
for M/s.Subbaraya Aiyar

C O M M O N J U D G M E N T
(Delivered by R.SUDHAKAR, J.)

The Revenue has filed these appeals assailing the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai, dated 27.10.2006 made in Int.T.A.No.194 and 195 (Mds)/2003 for the the assessment years 1998-1999 and 1999-2000 and the same were admitted on the following question of law:

Whether the Tribunal was right in holding that additional factoring charges received on overdue bills of exchange are not liable to interest tax?

2.1. The facts in a nutshell are as under: The respondent/assessee filed return of income for the assessment years 1998-1999 and 1999-2000 admitting chargeable interest of Rs.1,19,42,07,610/- and 1,07,33,79,181/- respectively, excluding the overdue interest on unpaid matured bills. It was the claim of the assessee that such amount was not chargeable to interest tax since it is not in the nature of chargeable interest as contemplated under the Interest Tax Act. The said plea of the assessee did not find favour with the Assessing Officer, who levied interest tax on the additional factoring charges levied.

2.2. Challenging the said order, the assessee appealed to the Commissioner of Income Tax (Appeals), who confirmed the addition made by the Assessing Officer.

2.3. Aggrieved by the said order, the assessee preferred appeals before the Tribunal. The Tribunal allowed the appeals of the assessee holding that the character of an overdue bill is not synonymous with loans and advances and, therefore, interest on overdue bills is to be excluded from chargeable interest under the Interest Tax Act.

2.4. Calling in question the said order, the Revenue has filed these appeals on the questions of law, referred supra.

3. We have heard Mr.T.Ravi Kumar, learned Senior Standing Counsel appearing for the Revenue and Mr.Venkat Narayanan, learned counsel appearing for the assessee and perused the orders passed by the Tribunal and the authorities below.

4. The issue raised in these appeals was considered by a Division Bench of this Court in Commissioner of Income Tax v. Sundaram Finance Ltd. [T.C.(A) Nos.1147 and 1148 of 2006, dated 20.7.2012]. The issue raised in the said decision and the finding of the Division Bench are extracted hereunder for better understanding of the issue:

> "…. (1) Whether in the facts and circumstances of the case, the Tribunal was right in holding that additional factoring charges amounting to received on overdue bills of exchange are not liable to interest tax?"
> ...
> 3. As far as the first question of law is concerned, the said issue is covered by the decision of this Court reported in (2008) 296 ITR 601 (Commissioner of Income Tax v. Cholamandalam Investment & Finance Co., Ltd.,) which in turn followed the decision of the Kerala High

Court reported in (1997) 228 ITR 40 (Commissioner of Income Tax v. State Bank of Travancore) holding that the character of an overdue bill is wholly distinct from loans and the advances and the interest on the loans and advances alone would be taxable under the Interest Tax Act. So far as the present case is concerned, the Tribunal followed its earlier order relating to the assessee's own case made in Int.T.A.108/2000 granting th relief to the assessee on additional factoring charges. The said decision came up for consideration in T.C.(A) No.55 of 2006 (Commissioner of Income Tax v. M/s.Sundaram Finance Services Limited) wherein, this court by order dated 1.2.2006 rejected the Revenue's appeal at the admission stage, following the decision in T.C.No.73 of 2000 (Commissioner of Income Tax v. M/s.Harita Finance Ltd., Madras). Going by the said decision, we answer the question of law in favour of the assessee and thereby confirm the order of the Tribunal. Accordingly, the tax case appeals are dismissed. No costs."

5. The learned counsel on either side fairly concede the above said decision of this Court is applicable on all fours to the facts of the present case and the question of law is to be answered against the Revenue and in favour of the assessee.

In view of the proposition of law enunciated in the decision, referred supra, these appeals are dismissed answering the question of law against the revenue and in favour of the assessee. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Assistant Registrar,
Income Tax Appellate Tribunal, IInd Floor, Rajaji Bhavan,
Chennai Bench "A", Chennai-90 Besant Nagar 'C'
2. The Secretary, Central Board
of Direct Taxes, New Delhi.
3. The Commissioner of Income Tax (Appeals) - III
121, Mahatmagandhi, Road, Chennai 600 034
4. The Deputy Commissioner of Income Tax
Company Circle I (2), Chennai.

+ 1 cc to Mr.R. Venkat Narayanan, Advocate SR.7324
+ 1 cc to Mr.T. Ravikumar, Advocate Sr.7161

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