IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE **S.MANIKUMAR**
and
THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

Tax Case(Appeal).No.844 of 2007

M/s.Upasana Finance Ltd.,
98A, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004. ... Appellant

-vs-

The Joint Commissioner of Income Tax,
Special Range - IX,
Nungambakkam High Road,
Chennai - 600 034. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai B Bench, dated 28.07.2006 passed in I.T.A.No.2016/Mds/2002.

For Appellant : Mr.J.Rishikesh
For Respondent : Mr.M.Swaminathan
Standing Counsel for Income Tax Dept.

JUDGMENT

[Judgment of the Court was made by S.MANIKUMAR, J.]

The instance Tax Case (Appeal) No.844 of 2007 has been admitted on the following substantial questions of Law.

i. Whether in facts and circumstances of the case, the Tribunal was correct in upholding the order of the CIT (A) in disallowing the provisions for non performing assets which was debited to the profit and loss account ?

ii. Whether in facts and circumstances of the case, the Tribunal was right in treating the sum of Rs.21,13,705/- as income when the same was not actually received by the appellant ?

iii. Whether in facts and circumstances of the case, the Tribunal was right in adding the over dues as income on a notional basis ?

iv. Whether in facts and circumstances of the case, the Tribunal was right in concluding that once income is accrued it is liable to be offered to tax though not actually received and when it is doubtful of recovery ?

v. Whether in facts and circumstances of the case, the Tribunal was right in treating income not recoverable as income merely because the assessee is following the mercantile system of counting ?

vi. Whether in facts and circumstances of the case, the Tribunal was correct in adding the sums of Lease Equalization Reserve and Special Depreciation Reserve to Book Profits, when these were merely a charge on profits of the Company?

2. On this day, when the matter came up for hearing, Mr.Rishikesh, learned counsel for the appellant fairly submitted that when the very same assessee had raised the above questions of Law in Tax Case (Appeal) No.948 of 2007, after hearing the parties, vide order dated 09.02.2016 in TCA No.948/07, the substantial questions of Law extracted supra, have been answered against the assessee and that based on the abovesaid decision, TCA No.844 of 2007 can be disposed of.

3. Learned counsel for the revenue endorses the said submission.

4. Having regard to the abovesaid submission TCA No.844 of 2007, is dismissed and the substantial questions of Law, are answered as against the assessee. No costs.

[S.M.K., J.] [D.K.K., J.]
08.06.2016

Index: Yes/No
Internet: Yes/No
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S.MANIKUMAR, J.,
and
D.KRISHNAKUMAR, J.,

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To

The Joint Commissioner of Income Tax,
Special Range - IX,
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