

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

C O R A M

THE HON'BLE MR. JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HON'BLE Dr. JUSTICE ANITA SUMANTH

Tax Case Appeal No.1420 of 2010

Commissioner of Income Tax III,
Chennai

... Appellant

Vs

M/s. Sriram Transport Finance Ltd.,
Mookambika Complex,
III Floor, No.4 Lady Desika Road,
Mylapore, Chennai 600 004 ... Respondent

Prayer:- Appeal filed under Section 260A of the Income Tax, 1961, against the Order of the Income Tax Appellate Tribunal, Chennai D Bench, dated 26.03.2010, in I.T.A.No.1610/Mds/2009. Against the order passed by Income Tax Appellate Tribunal Chennai Bench C Chennai made ITA.No.1610/MDS/09 for the assessment year 2005-2006 which was preferred against the order passed by the Commissioner of Income Tax (Appeals V 121, Mahatma Gandhi Road, Chennai 600 034 made in ITA.No.332/2007-2008 dt.24.12.2008.

For Appellant : Mr. J.Narayanasamy
For Respondent : Mr. R.Sivaraman

J U D G M E N T

(Judgment of the Court was delivered by Anita Sumanth, J.,)

The above Appeal is preferred by the Revenue under Section 260A of the Income Tax Act, 1961, calling and questioning the correctness of the order, dated 26.03.2010, passed by the Income Tax Appellate Tribunal, Chennai 'D' Bench, in I.T.A.No.1610/Mds/2009.

2. The following five substantial questions of law, relating to the assessment year 2005-06, have been raised for consideration, at the instance of the Revenue:-

"1. Whether on the facts and in the

circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to account for only the "additional finance charges" on a cash basis, while it was otherwise following the mercantile the system of accounting and also accounting for the very same transaction on a mercantile basis under the Company Law?

2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee could be permitted to follow the mercantile system of accounting for the purpose of Company Law and a Hybrid system for the purposes of Income Tax?

3. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that additional finance charges could be shown for Income Tax purposes on receipt basis, though the assessee has accounted for the same in the regular accounts on accrual basis and therefore were not includible in the taxable business income, ignoring the special provisions contained in Section 43 D of the Income Tax Act and Rules made thereunder, specifying the classes of assesseees and categories of bad and doubtful debts in respect of which such exclusion could be made?

4. Whether on the fact and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the disallowance of Long Term Capital Loss of Rs.1,09,93,553/- on account of sale of shares to a sister concern without applying the ratio of the Supreme Court's decision in the case of Aishini Least Finance P. Ltd., (309 I.T.R. 320)?

5. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the provision for the bad debts could not be added back while computing the book profits u/s 115JB in view of the retrospective amendment made by the Finance (2) Act, 2009 by the insertion of clause (1) in the explanation 1 to Section 115 JB?"

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3. We have dealt with identical questions of law, in Tax Case Appeal No.1421 of 2010, of even date, with detailed reasons set-out therein, answering Question Nos.1 to 4 in favour of the assessee and against the Revenue and Question No.5 against the assessee and in favour of the Revenue. Hence, this Tax Case Appeal is also disposed of, on the directions stated in TCA No.1421 of 2010. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Commissioner of Income Tax III
Chennai

2 The Commissioner of Income Tax
Appeal V 121 Mahatma Gandhi Road,
Chennai 600 034

3 The Income Tax Appellant Tribunal
Chennai

ssk(CO)
md(30/12/2016)

T.C.A.No.1420 of 2010

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