THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

I.T.T.A.No.41 of 2016

JUDGMENT: (per Hon'ble Sri Justice Ramesh Ranganathan)

This appeal, under Section 260-A of the Income Tax Act, 1961 (for short "the Act"), is preferred against the order passed by the Income Tax Appellate Tribunal in I.T.A.No.1491 of 2014 dated 04.02.2015 for the assessment year 2009-10. The respondent herein preferred an appeal before the Tribunal against the order of the Commissioner of Income Tax (Appeals), Hyderabad dated 26.06.2014 confirming levy of interest of Rs.65,54,448/- charged by the assessing officer under Section 234C of the Act.

The respondent herein, a public sector undertaking bank, was assessed to tax under Section 143(3) of the Act by proceedings dated 28.12.2011, and the interest payable by them was calculated by the assessing officer taking into account the advance tax of Rs.49 crores and Rs.200 crores paid by the assessee on 16.06.2008 and 16.03.2009 respectively. The assessee moved an application under Section 154 of the Act seeking rectification of the order of the assessing officer on the ground that both 15.06.2008 and 15.03.2009 were Sundays and bank holidays, and the payment was made on the next working day. They placed reliance on CBDT Circular No.676 dated 14.01.1994 as well as Section 10 of the General Clauses Act, 1897 in this regard. With regards payment of Rs.49 crores on 16.06.2008, the assessing officer rectified the assessment order holding that the said payment was made by physical means. However, with regards payment of Rs.200 crores on 16.03.2009, the assessing officer noted that the said payment was made through Internet Banking which operated '24X7 round the year', and 15.03.2009 was not a holiday for SBH Internet Banking. The Assessing authority held that payment of Rs.200 crores by the assessee towards advance tax on 16.03.2009 was after 15.03.2009, and therefore interest was liable to be charged for belated payment.

In the order under appeal, the Tribunal relied on CBDT Circular No.676 dated 14.01.1994 to hold that advance tax was paid by the assessee with the SBH and, since the said Bank was closed on 15.03.2009, payment was made on the next day; there was nothing in CBDT Circular No.676 to even indicate that the benefit thereunder depended on the mode of payment; while it was no doubt true that the said Circular was issued in January 2009, when the facility of making payment of tax through Internet Banking was not available, it was also clear that the said Circular had not been modified by the CBDT later restricting the benefit to cases other than payment of tax through Internet Banking; in the absence of any modification or clarification the benefit of Circular No.676 dated 14.01.1994, read with the provisions of the General Clauses Act, would be applicable even in cases where payment of advance tax was made through Internet Banking; and, therefore, payment of advance tax on 16.03.2009 should be considered as payment made on 15.03.2009, Sunday being a holiday.

Sri J.V. Prasad, Learned Senior Standing Counsel for Income Tax, would reiterate before us the very same submissions urged by the revenue before the Tribunal.

The respondent-assessee is a public sector undertaking bank and is closed on Sundays. The respondent-assessee paid advance tax with the State Bank of Hyderabad which is also closed on Sunday. While an Internet Banking facility may be available round the clock, the said facility can only be operated by the Bank through its officers. As Sunday, is a holiday, on which date both the respondent-assessee bank and State Bank of Hyderabad are closed, none of the officers and staff of either of these banks would be required to work on that day. Payment of advance tax on the very next day cannot, therefore, be said to be payment made beyond the time limit specified under the Act.

As has been rightly observed by the Tribunal in the order under appeal, CBDT Circular No.676 dated 14.01.1994 makes no distinction between payment made by physical means and payment made through Internet Banking, and the said Circular has not been modified subsequent to its being issued in January, 2009. The Tribunal is the final Court of fact and, save a substantial question of law arising for consideration in the appeal filed thereagainst, the impugned order would not necessitate interference. No question of law, much less a substantial question of law, arises for consideration in this appeal necessitating interference under Section 260-A of the Act.

The appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

08th June, 2016.
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
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ITTA.No.41 of 2016

Date: 08.06.2016

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