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

INCOME TAX REFERENCE NO. 394 OF 1999

The Commissioner of Income Tax,
Bombay City-III, Bombay .. Applicant
v/s.

American Express Bank Ltd. .. Respondent

Ms. Namita Shirke i/b Charanjeet Chanderpal for the applicant
None for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.

DATED : 22nd FEBRUARY, 2017.

P.C.

1. This Reference under Section 256(1) of the Income Tax Act, 1961 (the Act) by the Income Tax Appellate Tribunal seeks our opinion on the following substantial questions of law :-

For Assessment Year 1985-86

"Whether in the facts and circumstances of the case, the Tribunal was right in law in holding that the interest paid amount to Rs.29,99,050/- to the seller of securities for the broken period should be allowed as deduction ?"

For Assessment Year 1986-87

"Whether in the facts and circumstances of the case, the Tribunal was right in law in holding that Rs. 1,78,147/- being interest paid to the seller of securities for the broken period

should be allowed as deduction ?

2. This Reference relates to Assessment Years 1985-86 and 1986-87. Ms. Shirke, learned Counsel appearing for the applicant Revenue, on instructions, states that the issue arising herein stands concluded against the Revenue and in favour of the respondent assessee by the decision dated 12th August, 2008 of the Supreme Court in ***Commissioner of Income Tax Vs. Citi Bank N.A.*** (Civil Appeal No.1549 of 2006) wherein an identical question was answered in favour of the assessee and against the Revenue.

3. In the above view, both the identical questions (except difference in amount) are answered in the affirmative i.e. in favour of the respondent assessee and against the Revenue.

4. The Reference is answered in the above terms. No order as to costs.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**