

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

ITTA.No.256 of 2005

Date:06.12.2017

Between.

The Commissioner of Income Tax-I,
Hyderabad.

.....Appellant

And.

Andhra Bank,
Hyderabad.

.....Respondent

Counsel for the appellant: Mr. K.Raji Reddy

Senior Standing Counsel for Income Tax Department

Counsel for the respondent: Mr. Challa Gunaranjan

The Court made the following:

JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

The following substantial question of law has been raised by the Revenue in this appeal:

“Whether on the facts and in the circumstances of the case, the Tribunal is correct in holding that “interest on securities” is not exigible to tax under the Interest Act?”

The point that arises out of the above reproduced substantial question of law is whether for the Assessment Year 1995-96, the interest earned by the respondent-assessee on securities is exigible to tax under the Interest Act, 1974 (for short ‘the Act’).

Section-2(7) of the Act defines the word ‘interest’, which while including certain charges/incomes as falling under the definition of the word ‘interest’, excluded certain receipts from the said definition.

During the hearing, it is admitted by the learned counsel for both the parties that prior to the amendment of the definition of the word ‘interest’ with effect from 01.10.1991, ‘interest on securities’ was included in the exclusionary clause. However, with effect from 01.10.1991, ‘interest on securities’ has been deleted from the said exclusionary clause. Therefore, the Assessing Officer has included ‘interest on securities’ under

the taxable income of the respondent-assessee. The assessee has unsuccessfully challenged the Assessment Order before the Commissioner of Income Tax (Appeals). However, by the order under appeal, the Income Tax Appellate Tribunal, Hyderabad Bench 'B', Hyderabad (for short 'the Tribunal'), has allowed the assessee's appeal.

A perusal of the order of the Tribunal shows that it has followed the judgment of the Bombay High Court in *United Western Bank Ltd Vs Commissioner of Income Tax*¹ and also the judgment of the Allahabad High Court in *Sahara India Savings and Investments Corporation Vs. Commissioner of Income Tax, Kanpur*²

Mr. Challa Gunaranjan, learned counsel for the respondent-assessee, has submitted that the latter judgment was affirmed by the Supreme Court in *Commissioner of Income Tax, Kanpur Vs. Sahara India Savings and Investments Corporation*³.

In *Sahara India Savings and Investments Corporation* (2 supra), the Revenue has raised the same contention as was raised before the Tribunal as well as before us, viz., by deleting the words 'interest on securities' from the exclusionary clause under Section-2(7) of the Act, it is implied therefrom that taxes

¹ 259 ITR 312-Bom

² 264 ITR 646

³ (2009) 7 SCC 43

are chargeable on 'interest on securities' with effect from 01.10.1991. While repelling the said contention, the Supreme Court held as under:

"It is the case of the Department, however, which needs to be addressed at this stage, that prior to 01.10.1991, the word 'interest' in Section-2(7) was defined so as to include any amount chargeable to income tax under the head 'interest on securities'. It is the case of the Department that by an amendment w.e.f. 01.10.1991, the said item namely, "amount chargeable to income tax under the head 'Interest on securities' stood deleted and consequently, 'interest on securities' would fall within the definition of the word 'interest' under Section-2(7) of the Act.

According to the Department, Section-2(7) was not exhaustive and with the amendment w.e.f. 01.10.1991 when interest on securities stood excluded, it (interest on securities would automatically) fall within the purview of the word "interest" under Section-2(7) of the 1974 Act. We find no merit in this argument for two reasons. Firstly, as stated above, Section-2(7), read as a whole, focuses only on interests accruing on loans and advances, commitment charges and discount on promissory note and bills of exchange. It also specifically excluded interest under Section-42(1-B) of the Reserve Bank of India Act as well as discount on treasury bills.

It was very easy for Parliament to expressly provide for interest on securities to fall under Section-2(7), but that has not been done. The reason is obvious. As stated above, one of the objects of enacting the 1974 Act is by way of an anti-inflationary measure. In an inflationary situation, the cost of borrowing for the Government also

increases. One of the ways by which the cost of borrowing can be reduced is to see that companies like the respondent herein are made to invest in bonds and securities so that the Government is able to borrow moneys at a cheaper rate as compared to its borrowing in the market. It is precisely for this reason that Reserve Bank of India which is a regulator and which is responsible for the credit management of the economy and which is empowered to issue directions from time to time not only with the object of regulating the credit but also to control businesses like non-banking financial companies and residuary non-banking companies by issuing directions under Chapter-III-B of the Reserve Bank of India Act, issues directions and one of directions which has been issued in the present case is called as the Residuary Non-Banking Companies (Reserve Bank) Directions, 1987. These directions have been issued under Sections-45-J and 45-K of the Reserve Bank of India Act, 1934.”

In the light of the ratio laid down by the Supreme Court in *Commissioner of Income Tax, Kanpur* (3 supra), the substantial question of law raised by the Revenue must be held against it. Accordingly, the appeal is dismissed.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.AMARNATH GOUD

06th December 2017

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