IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case Appeal No.1531 of 2008

M/s.Integrated Finance Co. Ltd.,
112, Thyagaraja Road,
T.Nagar, Chennai - 600 017. .... Appellant

Vs.

The Deputy Commissioner of Incometax
Special Range - VIII, 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, Madras 'A' Bench, Chennai, dated 14.07.2006 made in ITA No.1923/Mds/2002 for the assessment year 1995-96.

For Appellant : Mr.R.Venkatanarayanan
for M/s.Subbaraya Aiyar Padmanabhan
For Respondent : Mr.Karthik Renganathan

J U D G M E N T
(Delivered by DR.ANITA SUMANTH,J)

This Tax Case (Appeal) has been filed by the Assessee calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras dated 14.07.2006 in respect of assessment year 1995-96.

The following substantial questions of law have been admitted by this Court vide order dated 30.09.2008:

> *"i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the appellant is not entitled to deduction of expenditure incurred in connection with rights issue of equity shares which did not result in increase of the capital base of the Company?*
>
> *ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the loss in investments is not an allowable deduction?*
>
> *iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in upholding the above disallowances in an intimation under section 143(1)(a)/143(1B) of the Act ignoring the fact that the issue is a highly debatable one and hence cannot be disallowed in a prima facie assessment under these Sections?"*

2. Mr.R.Venkatanaraynan, learned counsel appears for the assessee and Mr.Karthik Renganathan, learned Senior Standing Counsel appears for the Revenue.

3. The Tribunal has held the issue of allowability of expenditure incurred in connection with the rights issue of equity shares against the assessee in the light of the judgment of the Supreme Court in *Brooke Bond India Ltd. V. Commissioner of Income Tax* ((1997) 225 ITR 798). The adjustment was made in an intimation passed under section 143(1)(a) on 27.07.1997 when the judgment of the Supreme Court in *Brooke Bond* (supra) dated 27.02.1997, was available,. In the light of the above, we find

no infirmity in the order of the tribunal and substantial questions of law Nos.1 and 3 are answered against the assessee and in favour of the Revenue.

5. As far as question No.2 is concerned, the Tribunal has noted as a fact that the investments were held as capital assets and not as stock-in-trade thus confirming the disallowance of loss on sale of investment. In the light of this factual finding which is not in dispute, question No.2 is also answered against the assessee and in favour of the Revenue.

6. In fine, this Tax Case (Appeal) is dismissed. No costs.

(V.K.,J.) (A.S.M.,J.)
18.12.2018

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order

To
The Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai.

DR.VINEET KOTHARI, J.
and
DR.ANITA SUMANTH, J.

TCA No.1531 of 2008

18.12.2018