IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

Tax Case (Appeal) No.126 of 2011

Commissioner of Income Tax-I
Chennai. ... Appellant

vs

M/s.Bank of Madura Ltd.
(Now merged with ICICI Bank Ltd.)
752, Anna Salai, Chennai - 600 002
Now at 4^{th} Floor, East Wing,
No.24 South Phase,
Ambattur Industrial Estate, Chennai. ... Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal Bench 'B' Chennai, dated 09.09.2010, in I.T.A. No.295/Mds/1990 for the assessment year 1986-87. Against the Commissioner of Income Tax (Appeals)-V, Madras-34, and made in IT.Appeal.No.188-89, dt.20/11/1989, in the assessment year, 1986-87 and against the Deputy Commissioner of Income Tax, Special Range-I, Madras-34, made in PAN/GIR.No.6-B/47-016-CY-3954 in the assessment year 1986-87 dated:09/02/1989.

For Appellant : Mrs.R.Hemalatha,
Senior Standing Counsel

For Respondent : Mr.R.Venkata Narayanan,
For M/s.Subbaraya Aiyar,
Padmanabhan,

JUDGMENT
(Delivered by T.S.SIVAGNANAM, J)

This appeal, filed by the Revenue under Section 260-A of the Income Tax Act, 1961, (hereinafter referred to as "the Act"), is directed against the order of the Income Tax Appellate Tribunal

Bench 'B' Chennai, dated 09.09.2010, in I.T.A. No.295/Mds/1990 for the assessment year 1986-87.

2.The above appeal has been admitted on the following substantial questions of law, vide order dated 14.03.2011.

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the claim of bad debt of Rs.49,49,944/- due from M/s.Chhabria International was not premature and in directing the Assessing Officer to allow the claim?
>
> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that in respect of M/s.Mazdoor Extractions P. Ltd. the write off of the balance interest of Rs.7,59,580/- was not premature and in directing the Assessing Officer to allow the claim?"

3.Heard Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant/Revenue; and Mr.R.Venkata Narayanan, learned counsel appearing for the respondent/assessee.

4.The respondent/assessee, a banking company, had claimed bad debts to the tune of Rs.49,49,944/- due and payable by one M/s.Chhabria International to whom advances were made by the respondent/bank. The assessee took a decision to write off the said amount to bad debt, since the bank had security only to the tune of Rs.1,51,84,000/- and the outstanding payable by the said M/s.Chhabria International was more than Rs.2 Crores. The Assessing Officer as well as the Commissioner of Income-tax (Appeals)-V, Chennai, disallowed the same on the ground that it is premature, civil and criminal proceedings are pending against the borrower, security is available with the bank and the bank is not justified in claiming the same to be bad debts in the assessment year in question. The Tribunal over turned the decisions holding that the security was not to the full amount and only covered about Rs.1.51 Crores and the bank has taken a prudent decision.

5.In our considered view, the assessee is the best judge to decide as to whether the bad debt would be recoverable or not. The respondent/bank was initially called as M/s.Bank of Madura Ltd., subsequently, merged with ICICI Bank Ltd.

6.There have been lot of internal structural changes and it is the respondent and their team of officers dealing with the accounts and income tax matters, who have to take a decision.

The decision, which has been taken, has been found to be an acceptable decision, rather a plausible decision. Therefore, we find there is no substantial question of law is involved in this appeal.

7.Accordingly, the appeal filed by the Revenue is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsi/abr

To

1.The Income Tax Appellate Tribunal Bench 'B'
Chennai.

2.The Commissioner of Income Tax,
Appeal-V, Madras-34.

3.The Deputy Commissioner Income -Tax,
Special Range-I, Madras-34

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.81105

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.81239

T.C. (A) No.126 of 2011

RR(CO)
GSP(08/01/2019)