IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.201, 202, 203, 208 and 209 of 2018
and
C.M.P.Nos.3362, 3363, 3364, 3369 and 3370 of 2018

Commissioner of Income Tax,
Trichy. .. Appellant in all appeals

Vs

The Lakshmi Vilas Bank Ltd.,
Salem Road Kathaparai,
Karur. .. Respondent in all appeals

Tax Case Appeals filed u/s.260-A of the Income Tax Act, 1961, against the orders of Income Tax Appellate Tribunal Madras 'A' Bench, dated 29.01.2016 in ITA No.246/Mds/2014, ITA No.247/Mds/2014, ITA No.248/Mds/2014, ITA No.1364/Mds/2014 and ITA No.1365/Mds/2014 for the Assessment Years 2006-07, 2007-08, 2008-09, 1997-98 and 1998-99 against the order of commissioner of Income Tax (Appeals) Tiruchirapalli made in ITA Nos.284/11-12,193,194,195/13-14/CIT(A)/TRY,DT.25/10/2013, ITA.NO.384/07-08/CIT(A)/TRY DT.29/01/2014,ITA.NO.385/07-08/CIT(A)/TRY DT.29/01/2014 and against the order of the JOint Commissioner of income Tax ,range I,Tiruchirapalli,Deputy commissioner of Income Tax,(cirlce I)(1), Tiruchirapalli ,Deputy commissioner of Income Tax Circle I, Tiruchirapalli , commissioner of Income Tax Company Circle I, Tiruchirapalli and ,Assistant commissioner of Income Tax ,Company Circle I,Tiruchirapalli dt.29.12.2011 ,25/04/2013,25.04.2013 and 31.12.2007 & 31/12/2007 respectively made in PAN GIR.NO.AAA CT 4291P.

For Appellant : Mr.T.Ravikumar

For Respondent : Mr.Vijayaraghavan
for M/s.Subbaraya Aiyar
Padmanabhan & Ramamani

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COMMON JUDGMENT

[Judgment of the Court was made by T.S.SIVAGNANAM, J]

These appeals, by the Revenue, are directed against the common order of the Income Tax Appellate Tribunal, Madras 'A' Bench dated 29.04.2016 in I.T.Nos.246/Mds/2014, 247/Mds/2014, 248/Mds/2014, 1364/Mds/2014 and 1365/Mds/2014 for the assessment years 2006-07, 2007-08, 2008-09, 1997-98 and 1998-99.

2. The following substantial questions of law have been raised in the appeals:-

> 'Whether on the facts and in the circumstances of the case the tribunal was right in holding the assessee is entitled for deduction of bad debts written off u/s 36(1)(vii) in toto without ascertaining and excluding the debts relating to rural and non urban advances as provided under section 36(1)(viia) ?
>
> Whether on the facts and in the circumstances of the case the tribunal was right in allowing the claim of bad debts written off u/s 36(1)(viii) in excess of the provision made u/s 36(1)(viia) by following the decision reported in 343 ITR 270(SC) ?
>
> Whether on the facts and in the circumstances of the case the tribunal was right in holding that software expenditure is to be treated as a revenue expenditure and not a capital expenditure ?'

3. So far as substantial question of law No.1, which has been raised in TCA Nos.208 and 209 is concerned, it is regarding the expenditure for software whether it is Capital or Revenue in nature. In the assessee's own case in T.C.A.Nos.210 and 211 of 2018 arising for the Assessment Years 2001-02 and 2000-01, we have held that the expenditure is Revenue in nature and dismissed the appeals filed by the Revenue. Accordingly, the said question is answered in favour of the assessee and against the Revenue by applying the decisions in T.C.A.Nos.210 and 211 of 2018.

4. The next question, which arises in all the Assessment Years viz., 2006-07, 2007-08, 2008-09, 1997-98 and 1998-99, is with regard to 'bad debts'. The assessee had claimed deduction of bad debts and the details of the claim made in excess of the provision under Section 36(1)(viia) related to rural debts were not provided and therefore, the Assessing Officer disallowed the assessee's claim for bad debts relating to rural debts as quantified by

the Assessing Officer in the earlier proceedings. Aggrieved by the same, the assessee filed appeals before the Commissioner of Income Tax (Appeals), who allowed the appeals holding that the said expenditure is to be allowed as Revenue expenditure. The assessee further submitted that bad debts relating to rural debts were not claimed and accepting the same, the Commissioner of Income Tax (Appeals) allowed the appeals by following the decision of the Hon'ble Supreme Court in the case of Catholic Syrian Bank Ltd. v. CIT [(2012) 343 ITR 0270]. Aggrieved by the order of the Commissioner of Income Tax (Appeals), the Revenue filed appeals before the Tribunal, which were dismissed by the impugned order.

5. We have perused the findings recorded by the Assessing Officer and that of the Commissioner of Income Tax (Appeals) and the Tribunal. The Tribunal, in our considered view, rightly followed the decision of the Hon'ble Supreme Court in Catholic Syrian Bank Ltd., (supra), which decided the issue in favour of the assessee. We find that there is no error in the order passed by the Tribunal. Hence, for such reason, we find that there is no ground made out by the Revenue to interfere with the order passed by the Tribunal.

In the result, the Tax Case Appeals are dismissed and the substantial questions of law are answered in favour of the assessee and against the Revenue. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

gm

1.The Income Tax Appellate Tribunal Madras 'A' Bench, Chennai.
2.The Joint commissioner of Income Tax Range I, Tiruchirapalli.
3.The Deputy commissioner of Income Tax, Circle I(1), Tiruchirapalli
4.The Assistant commissioner of Income Tax ,Companty Circle I,Tiruchirapalli

+5cc to Mr.T.Ravikumar , Advocate SR.No.49725, 49726,49231,49732
+5cc to M/s.Subbaraya Aiyar , Advocate SR.No.50082, 50089,50088,50084,50083

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ASK(16/11/2018)