IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM

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

Tax Case Appeal No.131 of 2007

Commissioner of Income Tax,
Chennai. ... Appellant

-vs-

Upasana Finance Ltd.,
96/1 Luz Church Road,
Chennai-600 004 ... Respondent

Tax Case (Appeal) filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'B' Bench, dated 20.01.2006 in I.T.A.No.726/Mds/99 for the assessment year 1995-96 preferred against the order of the Commissioner of Income Tax (Appeals)X Chennai in I.T.A. No. 104/98-98 dated 12.02.1999 and filed against the order of the Deputy Commissioner of Income Tax, Special Range XI, Chennai in PAN /GIR/No.4.U/95-96 dated 25.03.1998 in the assessment year 1995-1996.

For Appellant : Mr.M.Swaminathan, Standing Counsel

For Respondent : Mr.P.J.Rishikesh

JUDGMENT

Heard Mr.M.Swaminathan, learned Standing Counsel for the appellant and Mr.P.J.Rishikesh, learned counsel for the respondent.

2.This tax case appeal has been filed challenging the order of the Income Tax Appellate Tribunal Madras 'B' Bench, dated 20.01.2006 in I.T.A.No.726/Mds/99 for the assessment year 1995-96.

3.The above appeal has been admitted on the following substantial questions of law:-

> “1.Whether in the facts and circumstances of the case, the Tribunal was right in deleting the

hire purchase and lease rentals accrued on "non-performing assets"?

2.Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee can be allowed to account for income from non-performing assets alone on a cash basis, when it is following a mercantile system of accounting, and hybrid system is not allowed under the Income Tax Act?"

4.Before we proceed to consider the substantial questions of law raised in this appeal, we have to first take note of the fact that the tax effect in the present appeal relevant for the assessment year 1995-96 is less than the threshold limit. In the case of Commissioner of Income Tax vs. N.Meenakshisundaram [Tax Case (Appeal) Nos.868 and 869 of 2008; Dated 23.04.2018], one of us (TSSJ) had an occasion to consider the various circulars issued by the Central Board of Direct Taxes (CBDT) as regards the threshold limits fixed for filing the appeals by the Revenue or pursue the appeals, which are pending from 2008 onwards.

5.Further, it is relevant to note that by Circular No.3/2018, dated 11.07.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.

6.Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open. No costs.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

abr
To

1.The Commissioner of Income Tax,
Chennai.

2.The Income Tax Appellate Tribunal Madras 'B' Bench.

3.The Commissioner of Income Tax (Appeals) III,
121, Mahatma Gandhi Road,
Chennai-600 034.

4. The Commissioner of Income Tax(appeals)X
121, Mahathma Gandhi Salai
Chennai 34.

5. The Dpeuty Commissioner of Income Tax
Special Range XI
Chennai 34.

+1 CC to Mr.P.J.Rishikesh, Advocate sr 58996.

Tax Case Appeal No.131 of 2007

CP(CO)
SP(18/09/2018)