R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 387 OF 2017

Pr. Commissioner of Income Tax 2 .. Appellant

Versus

M/s. Indusind Bank Ltd .. Respondent

....

- Mr. Suresh Kumar for the Appellant
- Mr. Sanjiv M. Shah for the Respondent

....

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE : APRIL 22, 2019.

P.C.:

1. This appeal is filed by the Revenue to challenge the judgment of the Income Tax Appellate Tribunal, Mumbai ("the Tribunal" for short) dated 13.4.2016.

2. Several questions are raised by the Revenue, however, these issues are merely remanded by the Tribunal before the Assessing Officer. We, therefore, do not see any reason to interfere in this respect, however, we may for clarification, notice that the Tribunal in the order impugned before us, had made an erroneous reference to its decision in case of HDFC

Bank Ltd. This error was corrected by an order dated 10.7.2018 and a correct reference to the assessee's own case for earlier assessment years has been made. This would not change the complexion of the issues and this development was noted only for complete the record.

3. The sole surviving question raised by the Revenue reads as under:-

> "Whether on the facts and in the circumstances of the case and in law, the Tribunal was correct in holding that the broken period interest is allowable as a deduction in spite of the Supreme Court decision in case of CIT Vs. Vijaya Bank (187 ITR 541) and the Rajasthan High Court decision in the case of Bank of Rajasthan (316 ITR 391)?"

4. It appears that the assessee had purchased securities on which certain interest was paid. The Revenue argued that the entire cost of security would include such interest component and the same would, therefore, be in the nature of capital expenditure. The assessee, however, argued that there was separate interest component payment of which was an allowable deduction. The Tribunal having accepted the assessee's contention, the Revenue is in the appeal before us. This issue is no longer *res integra*. The Division

Bench of this Court in case of **CIT Vs. HDFC Bank Ltd**[1] had ruled in favour of the assessee. We are informed that the appeal against such judgment of the High Court was also dismissed by the Supreme Court. In the result, the Income Tax Appeal is dismissed.

[SARANG V. KOTWAL, J.] **[AKIL KURESHI, J]**

1 [2014] 366 ITR 505 (Bom)