IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal Nos. 142 & 143 of 2008
And
M.P.Nos. 1 & 1 of 2011

Commissioner of Income Tax
Chennai. Appellant / Appellant in both T.C.As

Vs.

M/s. Bharat Overseas Bank Ltd.,
756 Habeeb Towers
Anna Salai
Chennai – 600 002 Respondent/Respondent in both T.C.As

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 29.12.2006 made in ITA No.2347/Mds/2005 and I.T.A.No. 2348/Mds/2005.

For Appellant in both T.C.As : Mr. T.Ravikumar
Senior Standing Counsel

For Respondent in both T.C.As : Mr. R.Meenakshi Sundaram
for Mr. Mahalingam

<u>C O M M O N J U D G M E N T</u>

(Delivered by **DR.VINEET KOTHARI, J.**)

The Revenue has filed these Appeals under Section 260-A of the Act raising the following substantial questions of law arising from the order of the learned Tribunal dated 29.12.2006 dismissing the Revenue's Appeals for the Assessment Years 1996-1997 and 1997-1998:-

> *"Whether in the facts and circumstances of the case, the Tribunal was right in holding that the Revenue should pay interest on interest, where there is no inordinate delay in payment of refund?"*

2. The learned Tribunal relying upon the earlier decision of the Supreme Court in the case of ***Sandvik Asia Ltd., Vs. CIT (280 ITR 643) (SC)*** dismissed the Revenue's Appeals. Paragraph No. 3 of the Tribunal order is quoted below for ready reference:-

> *"**3.** We have heard the rival submissions in the light of material placed*

before us and precedent relied upon. We find that this issue stands covered in favour of the assessee by the decision of the Hon'ble Supreme Court rendered in the case of Sandvik Asia Limited., Vs. CIT (280 ITR 643) (SC). Respectfully following the precedent, we uphold the impugned order.

In the result, appeals of the Revenue stand dismissed."

3. The learned counsel for the Appellant/Revenue has submitted before us that the aforesaid view of Hon'ble Supreme Court in Sandvik Asia Limited., cited supra has since been reversed by the Hon'ble Supreme Court in a later decision in the case of ***CIT Vs. Gujarat Fluoro Chemicals (2013) 358 ITR 291 (SC)*** in which taking note of the said decision of Sandvik Asia Limited as well as the later amendment of law with effect from 01.04.1989 by insertion of Section 244A of the Act, the Hon'ble Supreme Court has clarified that it is only the interest provided for under Section 244A of the Act which may be claimed by the Assessee on the refunds and no other interest can be claimed by the Assessee. Paragraph No. 8 of the said Judgement of the Hon'ble Supreme Court is quoted below for ready reference:-

*"**8.** Further it is brought to our notice that the Legislature by the Act No. 4 of 1988 (w.e.f. 01.04.1989) has inserted Section 244A to the Act which provides for interest on refunds under various contingencies. We clarify that it is only that interest provided for under the statute which may be claimed by an assessee from the Revenue and no other interest on such statutory interest."*

4. In view of the very foundation of the order of the learned Tribunal, namely, the earlier Judgement of the Hon'ble Supreme Court in the case of Sandvik Asia Limited., having been taken away by the later decision of Hon'ble Supreme Court in the case of ***CIT Vs. Gujarat Fluoro Chemicals,*** we remit the matter back to the learned Tribunal to decide the Appeal again in accordance with law, in view of the later decision of the Hon'ble Supreme Court and the amendment of law.

5. Accordingly, the appeals of the Revenue are disposed of without answering the aforesaid question of law. No costs. Consequently, connected Miscellaneous Petitions are closed.

(V.K., J.) (C.V.K.,J.)
20.03.2019

Index : Yes/No
Internet : Yes/No
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and
C.V.KARTHIKEYAN, J.

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