IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.04.2019

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

Tax Case Appeal No.439 of 2010

Commissioner of Income Tax
Chennai. ..Appellant

Vs.

M/s.Ashok Leyland & Finance Ltd.,
(now merged with M/s.Indusind Bank
Limited),Old No.115, 116 New No.34,
G.N.Chetty Rd.,T.Nagar, Chennai-17 ..Respondent

Appeal under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench, Chennai, dated 13.10.2009, made in ITA No.662/Mds/2009 prepared against the order of the Commissioner of Income Tax(Appeals)III, Chennai dt.29.12.2008, made in I.T.A.No.109/07-08/A-III, against the order dt.28.05.2007, made in C.I.R.No.AX5-050/1993-94 of the Assistant Commissioner of Income Tax, Company Circle I(1), Chennai.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.R.Venkatnarayanan
for Mr.R.Vijayaraghavan

JUDGMENT
(By Dr.Vineet Kothari, J.)

Revenue has filed this Appeal under Section 260-A of the Income Tax Act,1969, raising the following Substantial Question of Law arising from the order of the learned Income Tax Tribunal, dated 13.10.2009, dismissing the Revenue's Appeal for Assessment Year 1993-1994 :-

> "Whether in the facts and circumstances of the case, the Appellate 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 Hon'ble Supreme Court in the case of Sandvik Asia Ltd. Vs. CIT (280 ITR 643) (SC), dismissed the Revenue's Appeal.

3. Learned Senior Standing Counsel for the Appellant/Revenue has submitted before us that the view of Hon'ble Supreme Court in Sandvik Asia Ltd., 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 Ltd., 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 Ltd. having been taken away by the later decision of Hon'ble Supreme Court in the case of CIT Vs. Gujarat Fluoro Chemicals, cited above, 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, this Appeal of the Revenue is disposed of, without answering the aforesaid Question of Law. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dixit

To:

1.The Income Tax Appellate Tribunal,
Chennai 'D' Bench,
Chennai.

2.The Commissioner of Income Tax(Appeals),
Chennai.

3.The Assistant Commissioner of Income Tax,
Company Circle I(1), Chennai.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.39605

T.C.A.No.439 OF 2010

GSV(CO)

RRS(26/06/2019)