IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 24 OF 2016

The Pr. Commissioner of Income Tax,
having office at Aayakar Bhavan,
Panaji Goa. ... Appellant

Versus

M/s The Goa State Co-operative Bank Ltd.,
Ground Floor,
Sahakar Sankul, Patto,
Panaji Goa.
PAN NO.AAAAT 3364 ... Respondent

Ms. S. Linhares, Standing Counsel for the Appellant.
Mr. S. R. Rivankar, Senior Advocate with Mr. Rama Rivankar, Advocate for the Respondent.

Coram:- M. S. SONAK &
DAMA SESHADRI NAIDU, JJ.
Date:- 28th October, 2020

ORAL JUDGMENT (Per M. S. Sonak, J)

Heard Ms. S. Linhares, learned Standing counsel for the Appellant and Mr. S. R. Rivankar, learned Senior Advocate who appears alongwith Mr. Rama Rivankar for the Respondent.

2. This appeal was admitted on 31st August, 2016, on the following two substantial questions of law :-

(a) Whether in law, the order passed by the Income Tax Appellate Tribunal is sustainable in so far as it dismissed the

appeal filed by the revenue by declining to interfere in the order of Commissioner of Income Tax, by holding that provision for standard asset is the diminution in the value of stock-in-trade and thus allowable u/s 28(1) of the Act ?
(b) Whether in law, the order passed by the Income Tax Appellate Tribunal is sustainable in law as no reasons have been assigned by the Tribunal for answering the issue No./ground No.2 raised in appeal memo before Tribunal by the revenue as it mechanically answers the same in favour of the assessee without discussing the applicability of facts of the case of Nainital (supra) of Supreme Court to the facts of the present case ?

3. Both these substantial questions of law concern the provision for standard asset. The amount involved is in the range of ₹17,00,000/- and therefore the tax effect will be around ₹5,00,000/-.

4. Mr. Rivankar points out that the appellant at the stage of admission of this appeal had urged another substantial question of law based upon investment depreciation reserve. The tax effect as far as this question was concerned may have exceeded ₹1 Crore. However, by order dated 31st August, 2016, this Court declined to frame such substantial question of law.

5. According to us, the tax effect on the basis of substantial questions of law also framed is hardly ₹5,00,000/- then the CBDT Circular No.17 of 2019 dated 8th August, 2019 will come in the way of department prosecuting this appeal.

6. In such similar circumstances, we had disposed of Tax Appeal No.72 of 2015 by our order dated 13th October, 2020.

7. Accordingly, we dispose of this appeal without answering the substantial questions of law as framed on the sole ground that the tax effect now involved in this appeal is hardly ₹5,00,000/- or thereabouts.

8. This appeal is accordingly disposed of. There shall be no order as to costs.

DAMA SESHADRI NAIDU, J. **M. S. SONAK, J.**

at*