IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

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

TAX CASE APPEAL NO.207 OF 2018 & CMP.NO.3368 OF 2018

The Commissioner of Income Tax, Trichy ...Appellant

Vs

The Lakshmi Vilas Bank Ltd., Karur ...Respondent

Prayer:-

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 29.1.2016 passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai made in I.T.A.No.1209/Mds/2014 for the assessment year 2004-05.

Against the assessment order of the Deputy Commissioner of Income Tax, Circle I(1), Trichy, Dated 24.05.2013 in PAN.No.AAACT4291P, for the Assessment Year 2004-2005.

Against the Order of the Commissioner of Income Tax (A) Tiruchirapalli dated 25.10.2013 for the Assessment Year 2004-2005.

For Appellant: Mr.M.Swaminathan, SSC assisted by Mrs.V.Pushpa, SC

For Respondent: Mr.R.Vijayaraghavan for M/s.Subbaraya Aiyer Padmanabhan

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal has been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 29.1.2016 made in I.T.A.No.1209/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, 'A' Bench ('the Tribunal' for brevity) for the assessment year 2004-05.

2. The appeal was admitted on 30.11.2018 on the following substantial questions of law:

> "i. Whether, on the facts and in the circumstances of the case and the grounds raised herein, the Tribunal was right in holding that the amortisation expenses with respect to securities of (held to maturity) HTM category is allowable as revenue expenditure?
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> ii. Whether, on the facts and in the circumstances of the case and the grounds raised herein, the Tribunal was right in holding that the brokerage expenses with respect to securities of (held to maturity) HTM category is allowable as revenue expenditure ? And
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> iii. Whether, on the facts and in the circumstances of the case and the grounds raised herein, the Tribunal was right in holding that the loss on sale of securities of (held to maturity) category is allowable as a deduction?"

3. We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Mrs.V.Pushpa, learned Standing Counsel appearing for the Revenue and Mr.R.Vijayaraghavan,, learned counsel appearing on behalf of the respondent – assessee.

4. We need not labour much to decide the substantial questions of law framed for consideration, since, in the assessee's own case, identical questions in a slightly different form, were considered by the Hon'ble Division Bench of this Court in TCA.Nos.826 to 828 of 2008 dated 01.2.2017 and were answered against the Revenue in the following terms :

> "4. Parties would agree that the issue stands considered and accepted by this court in respect of assessment years 1985-86 and 1986- 87 in Tax Case (Appeal) Nos.94 and 95 of 2002, wherein, the facts and circumstances remain identical. In view of the submission, the substantial questions of law are answered in favour of the assessee and against the revenue.
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> 5. The following question of law, though raised, has not been admitted:-

'Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right, in law, in holding that the broken period interest is to be treated as revenue expenditure?'

6. Both parties would agree that the question is a substantial question of law that merits consideration. Accordingly, we admit the same. The finding of fact is to the effect that securities are held as stock-in-trade and that the income from sale there from is offered to tax as revenue. In the light of the admitted facts as seen from the order of the authorities, the expenditure incurred by the assessee towards broken 4 period is liable to be allowed as revenue expenditure. There is no infirmity in the order of the Tribunal in this regard.

7. The question stands answered in favour of the assessee, following the judgment of the Bombay High Court in American Express International Banking Corporation Vs. CIT (258 ITR 601). The appeals are dismissed."

5. Furthermore, the Tribunal, in the common impugned order, took note of the decision of this Court in the case of CIT Vs. Karur Vysya Bank Ltd. [TCA.No.2139 of 2008 dated 13.7.2009].

6. Thus, following the above referred to decisions, the tax case appeal filed by the Revenue is dismissed and the substantial questions of law are answered against the Revenue. No costs. Consequently, the connected CMP is also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

RS

To

1. The Registrar,
Income Tax Appellate Tribunal,
'A' Bench, Chennai.

2. The Commissioner of Income Tax (A)
Trichy.

3. The Deputy Commissioner of Income Tax,
Circle I(1), Trichy.

+1cc to Mr.M.Swaminathan, SSC, S.R.No.35599
+1cc to M/s.Subbaraya Aiyar, Advocate, S.R.No.35598

TCA.No.207 of 2018&
CMP.No.3368 of 2018

PPA(CO)
CS/16/12/2020