IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) Nos.77 to 79 of 2017

Principal Commissioner of Income Tax 4
No.121, Mahatma Gandhi Road,
Chennai 600 034. ... Appellant in all appeals

Vs.

M/s. MCC Finance Ltd.,
(Formerly Mercantile credit Corporation Ltd.,)
No.21, 3rd Floor, Arhti Arcade,
No.84, Dr. Radhakrishnan Road,
Mylapore, Chennai 600 004. ... Respondent in all appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'C' Bench, Chennai dated 4.5.2016 in ITA Nos.911/Mds/2015, 1597/Mds/2015 and 1598/Mds/2015 respectively.

Against the order of the commissioner of Income Tax (Appeals) - IV, Chennai dated 30.10.2014 and made in ITA. Nos. 353, 354 and 355 /10-11 for the Assessment Yar 1994-95, 1995-96 1996-97 respectively.

Against the order of the Assistant Commissioner of Income Tax Company circle IV (1), Chennai 34, Joint commissioner of Income Tax, Special Range VI, Chennai 34 dated 09.01.2009, 29/03/2001 and 22.03.1999 and made in PAN/GIR.No. MC-2, PA.No. GI.No. 9-M PAN/GIR.No. 47-005-CQ-7766/9-M for the Assessment year 1994-95, 1995-96 1996-97 respectively.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel assisted by
Mr.V.Rajesh, Jr. Standing counsel

J U D G M E N T

[Judgment of the Court was delivered by DR.VINEET KOTHARI,J]

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, by raising the following substantial questions of law:

> "1. Whether, on the facts and in the circumstances of the case and in law, Appellate Tribunal was right in holding that no interest disallowance under section 36(1)(iii) could be made since assessee had surplus funds at its disposal?
> 2. Whether, on the facts and in the circustances of the case and in law, Appellate Tribunal was correct and justified in deleting the disallowance of interest when assessee NBFC engaged in finance business failed to prove the commercial expediency in advancing interest free loan to employees of MAC group or to Star Enterprises?"

and in addition to the above questions of law, the following questions of law were also raised for consideration in respect of TC.(A) No.79 of 2017.

> ' 1. Whether, on the facts and in the circumstances of the case and in law, Appellate Tribunal was right and justified in holding that assessee is entitled to depreciation on assets which were retained by lessees even after expiry of lease period?
> 2. Whether, on the facts and in the circumstances of the case and in law, Tribunal was correct and justified in granting depreciation on assets which the assessee did not put to use for any business purposes and was lying with the lessees after expiry of lease period?'

2. When the matter was taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore)
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3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeals filed by the Revenue is dismissed as not pressed, keeping open

the substantial questions of law for determination in an appropriate case.

Sd/-

Assistant Registrar (CO MDU)

//True Copy//

Sub Assistant Registrar

Msr

To

1.Income Tax Appellate Tribunal
'C' Bench,Chennai.

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

3.The Assistant Commissioner of Income Tax
Company Circle IV (1), Chennai 34.

4.The Joint Commissioner of Income Tax,
Special Range VI , Chennai 34.

Tax Case (Appeal) Nos.77 to 79 of 2017

SV(CO)
GN(25/06/2020)