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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

T.C.A.NOS.906 & 907 OF 2015

The Commissioner of Income Tax,
Chennai.
...Appellant in both appeals

Vs

M/s.Indian Overseas Bank,
Funds and Accounts Department,
762, Anna Salai,
Chennai – 600 002.
...Respondent in both appeals

APPEALS under Section 260A of the Income Tax Act against the common order dated 30.08.2011 made in ITA.No.782/Mds/2001 and ITA.No.1991/Mds/2002 on the file of the Income Tax Appellate Tribunal, 'A' Bench, Chennai for the assessment year 1992-93 and 1993-94 respectively.

Prayer in T.C.A.No.906 of 2015:- against the appellate order passed by the Commissioner of Income-Tax, Chennai, dated 21/10/2002, made in ITA.No.286/2001-2002 for the Assessment Year 1992-1993 against the Assessment order passed by the Joint Commissioner of Income Tax, Special Range – I, Chennai, dated 23/12/1998, made in PAN/GIR No.AAAC/1223J for the Assessment Year 1992 – 1993.

Prayer in T.C.A.No.907 of 2015:- against the appellate order passed by the Commissioner of Income Tax, Chennai, dated

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18/12/2000, made in ITA.No.250/1998-1999 for the Assessment year 1992-1993, and against the Assessment order passed by the Joint Commissioner of Income Tax, Special Range – I, Chennai, dated 23/12/1988, made in PAN/GIR No.AAC/1223J for the Assessment Year 1993 – 1994.

For Appellant
in both T.C.As : M/s.R.Hemalatha
Senior Standing Counsel
For Respondent
in both T.C.As : Mr.Venkatanarayanan
for M/s.Subbaraya Aiyar Padmanabhan

COMMON JUDGMENT
(Delivered by T.S.Sivagnanam,J)

These appeals have been filed by the revenue under Section 260A of the Income Tax Act, 1961 ['the Act' for brevity] challenging the common order dated 30.08.2011 passed by the Income Tax Appellate Tribunal [hereinafter referred to as “the Tribunal”], 'A' Bench in I.T.A.No.782/Mds/2001 for the assessment year 1992-93 and I.T.A.No.1991/Mds/2002 for the assessment y ear 1993-94.

2.T.C.A.No.906 of 2015 was admitted on 23.11.2015 on the following substantial questions of law:

> “1.Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the additions made on interest on securities?
>
> 2.Is not the finding of the Tribunal bad by deleting the additions made on interest on securities especially when the assessee has credited interest on day to day basis in its books of accounts as per mercantile system of accounting being followed whereby the entire interest income had accrued during the year?
>
> 3.Whether the Tribunal was right in law in holding that the loss on revaluation of securities

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is to be allowed irrespective of the fact that the assessee had valued the investment at cost price in its book but however for the Income Tax purposes valuation was made as cost price or market price whichever is lower?

4.Whether the assessee bank could follow one method of accounting and different method for tax purposes while claiming deduction of loss which was entirely notional in nature which had accrued and had not been written off in its book?”

3.T.C.A.No.907 of 2015 was admitted on 23.11.2015 on the following substantial questions of law:

“1.Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the additions of Rs.11,73,77,198/- made on interest on securities?

2.Is not the finding of the Tribunal bad by deleting the additions made on interest on securities especially when the assessee has credited interest on day to day basis in its books of accounts as per mercantile system of accounting being followed whereby the entire interest income had accrued during the year?”

4.We have heard M/s.R.Hemalatha, learned senior standing counsel appearing for the appellant/revenue and Mr.R.Venkatanarayanan, learned counsel for Mr.Subbarya Aiyar Padmanaban, learned counsel appearing for the respondent/assessee.

5.Though there are four substantial questions of law in T.C.A.No.906 of 2015, there are only two issues and in so far as T.C.A.No.907 of 2015 is concerned, though there are two substantial questions of law framed, there is only one issue which is with regard to additions made on interest on securities.

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6.The above substantial questions of law framed in both the tax case appeals have been answered in favour of the assessee by the Hon'ble Division Bench of this Court in the case of Commissioner of Income Tax vs. City Union Bank Ltd. [(2007) 291 ITR 0144 (Mad)] and in the case of Commissioner of Income Tax vs. Karur Vysya Bank Ltd. [(2009) 77 CCH 0603 CHenHC and in The Commissioner of Income Tax, Trichy vs. The Lakshmi Vilas Bank Ltd., in T.C.A.No.207 of 2018 dated 04.11.2020.

7.The first substantial question of law with regard to the additions made on the interest on securities was the first substantial question of law framed for consideration in the case of City Union Bank Ltd. and it was held in favour of the assessee in the following terms:

> “4.1. With regard to the first substantial question of law raised in T.C.(A).No.22 of 2004 and the first substantial question of law raised in T.C.(A).No.466 of 2004, the Division Bench of this Court by judgment dt. 23rd Jan., 2007 made in T.C.(A).Nos.15 and 24 of 2003, CIT vs. Tamilnadu Mercantile Bank Ltd., [reported at (2007) 209 CTR (Mad) 250-Ed.], after referring to the decisions in CIT vs. Canara Bank (1991) 100 CTR (Kar) 207: (1992) 195 ITR 66 (Jkar), CIT vs. Shoorji Vallabhdas & Co. (1962) 46 ITR 144 (SC), H.M.Kashiparekh & Co. Ltd., vs. CIT (1960) 39 ITR 706 (Bom), Poona Electric Supply Co. Ltd. vs. CIT (1965) 57 ITR 521 (SC), Morvi Industries Ltd. vs. CIT 1974 CTR (SC 149 : (1971) 82 ITR 835 (SC), State Bank of Travancore vs. CIT (1986) 50 CTR (SC) 290 : (1986) 158 ITR 102 (SC), Godhra Electricity Co. Ltd. vs. CIT (1997) 139 CTR (SC) 564 : (1997) 225 ITR 746 (SC), held that the assessee is taxable for interest on securities only on specified dates when it becomes due for payment, in view of third proviso to s.145(1) of the Act, which was in force during the relevant assessment years.”

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8.In so far as the third substantial question of law in T.C.A.No.906 of 2015 is concerned, i.e. with regard to the loss on revaluation on securities that was the third substantial question of law in the case of City Union Bank Ltd. which was answered in favour of the assessee as follows:

> "6.1.Qua the third question of law in T.C.(A).No.22 of 2004 is concerned, the Tribunal held that when investments are made in accordance with the requirements of the Act, wherein the market price changed from the value shown in the opening balance and at the end of the year, the same could be allowed as depreciation.
>
> 6.3.In view of the ratio enunciated from the decisions referred supra, we find no infirmity in the decision of the Tribunal in this regard."

9.Thus, following the above decisions, the tax case appeals are dismissed and the substantial questions of law are answered against the revenue. No costs.

Sd/-
Assistant Registrar(CS-VII)

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Sub Assistant Registrar

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To

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

2. The Commissioner of Income-Tax,
   Chennai.

3. The Joint Commissioner of Income Tax,
   Special Range – I, Chennai.

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+2ccs to Mr.T.Ravi Kumar, Advocate, S.R.No.41562, 41563

+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.41932

T.C.A.Nos.906 & 907 of 2015

EV(CO)
RLP(20/09/2021)