IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM :

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

T.C.A. Nos.80 and 81 of 2016

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

Vs.

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

Tax Case Appeals preferred under Section 260A of the Income Tax Act, 1961, against the common order, dated 30.08.2011, passed by the Income Tax Appellate Tribunal, Chennai, "A" Bench, in I.T.A.Nos.780/Mds/2001 and 781/Mds/2001, for the Assessment Years 1990-91 and 1991-92 respectively.

Prayer in TCA 80 of 2016
against the Order of the Commissioner of Income Tax(A)V, dated 18/12/2000 in ITA.No.252/98-99 and 251/98-99 pertaining the Assessment year 1990-1991 and 1991-1992 against the Order of the Joint Commissioner of Income Tax, Special Range-I, Chennai dated 22/12/1998 in PAN.No/GIR.No.AAACI1223J.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel
in both appeals

For Respondent : Mr.R.Vijayaraghavan
for M/s.Subbaraya Aiyar Padmanabhan
in both appeals

COMMON JUDGMENT

(Judgment was delivered by T.S. SIVAGNANAM, J.)

These Tax Case Appeals filed by the Revenue under Section 260-A of the Income Tax Act, 1961 ("the Act" for brevity) are directed against the common order, dated 30.08.2011, passed by the Income Tax Appellate Tribunal, Chennai, "A" Bench, in I.T.A.Nos.780/Mds/2001 and 781/Mds/2001, for the Assessment Years 1990-91 and 1991-92 respectively.

2.The appeals were admitted on 02.02.2016 to decide 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 holding that the addition on interest on securities for the assessment year 1990-91 amounting to Rs.29,89,48,379/- was not liable to tax?
>
> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that loss on revaluation of securities amounting to Rs.14,89,42,190/- was held as trading assets in order to claim the deduction?"

3.We have heard Mrs.R.Hemalatha, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Vijayaraghavan for M/s.Subbaraya Aiyar Padmanabhan, learned counsel for the respondent/assessee.

4.It is not in dispute before us that in the assessee's own case in T.C.A.Nos.906 and 907 of 2015, dated 18.08.2021, the substantial questions of law have been answered in favour of the assessee and against the Revenue. The judgment reads as follows :

> "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 year 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 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.

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.”

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."

5.Thus, following the above decision, these Tax Case Appeals are dismissed and the substantial questions of law are answered against the Revenue. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To
1. The Income Tax Appellate Tribunal,
   Chennai, "A" Bench,
   Chenai - 34.

2. The Joint Commissioner of Income Tax,
   Special Range I,
   Chenai.

3. The Commissioner of Income Tax(A),
   (Appeals V),
   Chenai - 34.

+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.42224
+1cc to M/s.T.Ravikumar,Advocate, S.R.No.42208

T.C.A. Nos.80 and 81 of 2016

SRA[co]
NSK 28/09/2021