IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.1339 of 2009

The Commissioner of Income Tax I,
Chennai. ... Appellant/Appellant

Versus

M/s Bank of Madura Ltd.,
(Now merged with ICICI Ltd)
4th Floor, West Wing
93 Santhome High Road,
Chennai 600 028. ... Respondent/Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, “D” Bench, dated 26.06.2009 in I.TA.No.19/Mds/2008 against the O/o Commissioner of Income Tax (Appeals)-VIII, No.121, Mahatma Gandhi Salai, Nungambakkam, Chennai-600 034 and made in Intt.TA.TR.Nos.6, 7, 8 & 9/2004-05 dated 04.09.2008 and against the O/o. Income Tax Department, Interest Tax, and made in PAN No.BX2-001/AAACB2929E dated 24.03.2003 for the assessment year 2000-2001.

For Appellant : Mr.T.Ravikumar,
Senior Standing Counsel

For Respondent : Mr.R.Vijayaraghavan for
Mr.Subbaraya Aiyar Padmanabhan

J U D G M E N T
(Judgment of the Court was delivered by R.MAHADEVAN, J.)

We have heard Mr.T. Ravi Kumar, learned Senior Standing Counsel appearing for the Revenue and Mr. Subbaraya Aiyar, learned counsel appearing for the assessee and also perused the materials placed before this court.

2.This tax case appeal has been filed by the appellant / Revenue, challenging the order dated 26.06.2009 passed by the Income Tax Appellate Tribunal, Chennai 'D' Bench, in I.T.A.No.19/Mds/2008, relating to the assessment year 2000-01.

3.By order dated 07.12.2009, this court admitted the aforesaid tax case appeal on the following substantial question of law:

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the additional factoring charges received on overdue bills of exchange are not liable to interest tax?"

4.The facts leading to the filing of this appeal would run thus:

The respondent/assessee filed return of income for the assessment year 2000-01 declaring a total chargeable interest of Rs. 1,28,07,45,340/-, excluding the overdue interest collected to the tune of Rs.6,98,25,253/- in view of the decision of the Kerala High Court in 228 ITR 40. The Assessing Officer did not agree with the claim so made by the assessee and relying on the decision of the Karanakata High Court in 175 ITR 607, which held that "any amount collected by the Bank for delayed payment of bills could not be anything but interest, irrespective of the nomenclature, for the purpose of Interest tax Act, 1974", included the said amount in the chargeable interest. Challenging the said order of assessment, the assessee appealed to the Commissioner of Income Tax (Appeals), who allowed the said appeal. Aggrieved by the said order, the Revenue filed an appeal before the Income Tax Appellate Tribunal, which confirmed the order passed by the Appellate Authority and dismissed the Revenue's appeal. Therefore, this tax case appeal by the Revenue.

5.The issue raised in this appeal was covered against the Revenue as per the decision of a Division Bench of this Court in Commissioner of Income Tax v. Sundaram Finance Ltd. [T.C.(A) Nos.1147 and 1148 of 2006, dated 20.7.2012]. For better understanding, the relevant portion of the said decision is extracted below:

> "…. (1) Whether in the facts and circumstances of the case, the Tribunal was right in holding that additional factoring charges amounting to received on overdue bills of exchange are not liable to interest tax?"
>
> ...
>
> 3. As far as the first question of law is concerned, the said issue is covered by the decision of this Court reported in (2008) 296 ITR 601 (Commissioner of Income Tax v. Cholamandalam Investment & Finance Co., Ltd.,) which in turn followed the decision of the Kerala High Court reported in (1997) 228 ITR 40 (Commissioner of Income Tax v. State Bank of Travancore) holding that the character of an overdue bill is wholly distinct from loans and the advances and the interest on the loans and advances alone would be taxable under the Interest Tax Act. So far as the present case is concerned, the Tribunal followed its earlier

order
relating to the assessee's own case made in Int.T.A.108/2000 granting th relief to the assessee on additional factoring charges. The said decision came up for consideration in T.C. (A) No.55 of 2006 (Commissioner of Income Tax v. M/s.Sundaram Finance Services Limited) wherein, this court by order dated 1.2.2006 rejected the Revenue's appeal at the admission stage, following the decision in T.C.No.73 of 2000 (Commissioner of Income Tax v. M/s.Harita Finance Ltd., Madras). Going by the said decision, we answer the question of law in favour of the assessee and thereby confirm the order of the Tribunal. Accordingly, the tax case appeals are dismissed. No costs.”

6.In the light of the aforesaid decision, TC(A) Nos.1207 and 1208 of 2007 filed by the Revenue against the assessee / ICICI Bank Ltd, were dismissed by a co-ordinate bench of this court, by judgment dated 10.02.2015.

7.The learned counsel appearing for both sides in unison submitted that the aforesaid decisions of this court are applicable to the facts of the present case.

8.In view of the proposition of law enunciated in the decisions, referred supra, this appeal is dismissed answering the question of law against the revenue and in favour of the assessee. No costs.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal,
Chennai “D” Bench.

2. The Commissioner of Income Tax I,
Chennai.

3. The Commissioner of Income Tax Appeals VIII,
Nungambakkam.

4. The Income Tax Department,
   Interest Tax, Chennai.

+1cc to Mr.T.Ravikumar, Advocate SR.No.1873

+1cc to Mr.Subbaraya Aiyar Padmanabhan, Advocate SR.No.1874

RR(CO)
GMY(08/02/2022)