OD-3

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITA/460/2008
COMMISSIONER OF INCOME TAX, BURDWAN
VS.
PASCHIM BANGA GRAMIN BANK

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 9th February, 2023

<u>*Appearance*</u> :
Mr. Tilak Mitra, Adv.
Mr. Soumen Bhattacharjee, Adv.
….for appellant

Ms. Sutapa Roychowdhury, Adv.
Ms. Aratrika Ray, Adv.
…for the respondent

The Court : This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order 7th September, 2007 passed by the Income Tax Appellate Tribunal, 'A' Bench, Kolkata (Tribunal) in ITA No.1094/Kol/2007 for the assessment year 2004-05.

The appeal was admitted on 13th August, 2008 on the following substantial question of law :

"Whether on the facts and circumstances of the case the Income Tax Appellate Tribunal was correct in allowing deduction under Section 80P(2)(a)(i) to the assessee in view of the decision reported in 250 ITR 229 where it was held, "Income earned by co-operative Bank on deposits of its non SLR deposits (i.e. funds other than those advanced as loans and the banking reserves) is not deductible under section 80P(2)(a)(i) ?"

We have heard Mr. Tilak Mitra, learned standing counsel appearing for the appellant and Ms. Sutapa Roychowdhury, learned counsel for the respondent.

The substantial questions of law raised by the revenue have been answered in favour of the assessee and against the revenue by the Hon'ble Supreme Court in the case of *Commissioner of Income Tax vs. Karnataka State Co-operative Apex Bank, 2001 (251) ITR 194* and in the case of *Mehsana District Central Co-operative Bank Ltd. vs. Income-tax Officer, 2001 (251) ITR 522*. In the said decision, it has been held that interest arising from investment made, in compliance with statutory provisions to enable the co-operative society to carry on banking business, out of reserve fund by such society engaged in banking business, is exempt under Section 80P(2)(a)(i) of the Act. Further, the placement of such funds being imperative for the purpose of carrying on banking business the income therefrom would be income from the assessee's business. Therefore, it was held that the assessee/co-operative society was entitled to deduction under Section 80P(2)(a)(i) of the Act in respect of interest earned from funds utilised for such statutory reserves.

Thus, applying the law laid down by the Hon'ble Supreme Court in the aforementioned decisions, this appeal is dismissed and the substantial question of law is answered against the revenue.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Pal/SN.