IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1112 OF 2018

Pr. Commissioner of Income Tax – 2 ….Appellant

V/s.

State Bank of India …Respondent

Mr. Suresh Kumar for Appellant.
Mr. Nitesh Joshi i/b Mr. Atul K. Jasani for Respondent.

CORAM : K.R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED : 6th DECEMBER 2023

P.C. :

1. The following substantial question of law is proposed.

QUESTION OF LAW

a) Whether in facts and circumstances of the case and in law, the Hon'ble ITAT was right in directing the A.O. to apply provision u/s 214(1A) of the I.T. Act, 1961 without appreciating the fact that the said provision is not applicable retrospectively but is applicable only w.e.f. 01.04.1985 and hence not applicable to the current assessment year?

2. The scrutiny assessment of respondent/assessee under Section 143(3) of the Income Tax Act, 1961 (the Act) was completed at assessed income of Rs.391,66,88,863/- against returned income of Rs.191,61,33,630/- which was reduced to Rs.275,92,63,549/- while giving effect to order of Commissioner of Income Tax (Appeals) [CIT(A)]. The income was again reassessed under Section 147 read with Section 143(3) of the Act vide order dated 21st October 1994 at Rs.277,43,87,168/- which was again reduced to Rs.247,81,14,380/- after giving effect to order of CIT (A). The Income Tax

Appellate Tribunal (ITAT) vide its order dated 22nd August 2006 set aside certain portions of the order and directed the Assessing Officer (A.O.) to decide the issue afresh. The final assessment was completed under Section 143(3) read with Section 254 of the Act and by an order dated 19th December 2007 assessee's income was assessed at Rs.173,05,09,080/- and refund of Rs.1,73,71,46,304/- was determined and issued to assessee. This included interest of Rs.78,98,38,191/- under Section 214 of the Act and Rs.8,06,96,480/- under Section 244(1A) of the Act and Rs.60,74,69,333/- under Section 244A(1)(b) of the Act.

3. By an order dated 31st March 2012 under Section 154 of the Act, the Assessing Officer (A.O.) withdrew an amount of Rs.52,22,62,210/- as excess interest paid.

4. Assessee filed an appeal before the CIT(A) who partly allowed the appeal but confirmed the order of the A.O. on the issue of interest. Aggrieved by the order assessee filed an appeal before the ITAT, which following the decision of this court held that there was no merit in A.O. disallowing the claim of interest under Section 214(1A) of the Act and allowed the appeal. It is impugning this order dated 14th December 2016 passed by the ITAT, this appeal has been filed.

5. The Division Bench of this court in ***Ultramarine & Pigments Ltd. vs. O.P. Srivastava, Commissioner of Income Tax***[1] in Paragraph No. 7 has

1 (2006) 286 ITR 86 (Bom)

held as under :

> *7. Two grounds are given in that order. Firstly that there was delay. As far as this aspect is concerned, on the facts which are narrated above, it cannot be said that there was delay and the revision could not be rejected only on that ground. The second ground for rejecting the application was that the amended provisions of s. 214(1A) are applicable with effect from 1st April 1985 and not in respect of the year in question. Mr. Mehta, learned counsel appearing for the petitioner, has drawn our attention to a Division Bench judgment of this Court in the case of CIT vs. Saswad Mali Sugar Factory Ltd. (2001) 168 CTR (Bom) 337 : (2001) 249 ITR 756 (Bom). The Division Bench has held therein that the Taxation Laws (Amendment) Act, 1984 is procedural in nature and, therefore, it will apply to all the pending actions. This being so, sub-section (1A) which was introduced in s. 214 will apply to the petitioner's case. There is no substance in the second ground of rejection of revision.*

6. The tribunal has followed this judgment to say that Sub Section 1A of the Act which was introduced in Section 214 of the Act will apply to petitioner's case for Assessment Year 1984-85. We agree with the conclusion of the ITAT because the proceedings were still pending and the refund payable was determined by an order passed under Section 154 of the Act only on 31st March 2012 and Sub Section 1A in Section 214 of the Act was introduced w.e.f. 1st April 1985.

7. Therefore, we find no merit in the appeal.

8. Appeal dismissed.

(DR. NEELA GOKHALE, J.) **(K.R. SHRIRAM, J.)**