THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE N.TUKARAMJI

I.T.T.A.No.192 of 2006

JUDGMENT: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Mr. Kartik Ramana Puttamreddy, learned counsel for the appellant and Mr. J.V.Prasad, learned Standing Counsel, Income Tax Department for the respondent.

2. This appeal has been preferred by the assessee as the appellant under Section 260A of the Income Tax Act, 1961 (briefly 'the Act' hereinafter) against the order dated 28.10.2005 passed by the Income Tax Appellate Tribunal, Hyderabad Bench 'A', Hyderabad (briefly 'the Tribunal' hereinafter) in I.T.A.No.663/Hyd/2003 for the assessment year 2000-2001.

3. Appeal was admitted *vide* the order dated 17.09.2012 on the following substantial questions of law:

> a. Whether on the facts and in the circumstances of the case, the Tribunal is justified in upholding the view of Income Tax Department that interest income of Rs.9,70,05,194/- which pertained to assets which became non-performing assets as

> on 31.03.1999, but which were discovered to be non-performing only in the subsequent accounting year ending 31.03.2000, should not be deducted from the taxable income of assessment year 2000-2001 ?
>
> b. Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the Reserve Bank's guidelines dated 4.7.2002 which permitted reversal of entries in a subsequent year would be binding only under the Banking Regulation Act but not under the Income Tax Act?
>
> c. Whether on the facts and in the circumstance of the case, reversal of an entry of interest income pertaining to non-performing assets in a subsequent year is in conflict with Section 142 of the Act ?

4. Appellant before us is the State Bank of India (cause title amended *vide* the order dated 02.01.2018 in ITTAMP.No.786 of 2017). For the assessment year 2000-2001, it was assessed by the assessing officer *vide* the assessment order dated 29.01.2003 passed under Section 143(3) of the Act.

5. In the course of the assessment proceedings, it was found that assessee had accounted for gross interest earned net of unrealised interest income of previous year on advances identified as Non-Performing Assets (NPAs) for the first time during the year as per norms laid down by the Reserve Bank of India (RBI). Assessee had submitted interest of Rs.9,70,05,194.00 which was reversed during the year relatable to certain borrowings which had become NPAs. As per the guidelines of RBI, interest on NPAs was required to be quantified and such interest had to be deducted/reversed to the subsequent year. However, the assessing officer did not accept the claim of the assessee and added the same to the income of the assessee *vide* the assessment order dated 29.01.2003.

6. This was assailed by the assessee before the Commissioner of Income Tax (Appeals)-IV, Hyderabad (for short 'CIT(A)' hereinafter). By the appellate order dated 19.03.2003, CIT(A) held that assessing officer was correct in disallowing the deduction claimed by the appellant. Adverting to Section 43D

of the Act, CIT(A) held that income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed by the RBI in relation to such debts shall be chargeable to tax in the previous year in which it is credited by the Schedule Bank to its profit and loss account. Holding that claim of the assessee is not permissible under Section 43D of the Act, the said ground of appeal was rejected.

7. Thereafter, assessee filed further appeal before the Tribunal. Tribunal partly allowed the said appeal along with two other appeals of the assessee for different assessment years and passed common order dated 28.10.2005. Relevant portion of the order of the Tribunal dated 28.10.2005 reads as under:

> "…..
>
> Grounds Nos.2 to 8 are on the issue of addition made on account of interest which accrued on non-performing assets. The issue is covered against the assessee and in favour of the Revenue by an order of the Tribunal in the case of the assessee reported in 94 ITD 219. Respectfully

> following the same, we dismiss grounds Nos.2 to 8."

8. By a separate detailed order passed today, we have dismissed an identical appeal being I.T.T.A.No.202 of 2005 filed by the assessee on the very same issue. Following the same, this appeal is dismissed. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

UJJAL BHUYAN, CJ

N.TUKARAMJI, J

Date: 08.02.2023
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