IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-01-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

TCA No.170 of 2013

M/s IDFC Limited
KRM Towers, 8th Floor, No.1, Harringon Road,
Chetpet, Chennai – 600 031.

..Appellant

Vs

The Assistant Commissioner Of
Income Tax, Company Circle II(3), Chennai.

..Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against Income Tax Appeal No.87/Mds/2012 DATED 28.09.2012 on the file of the Income Tax Appellate Tribunal, Chennai "C" Bench for the assessment year 2006 – 2007.

For Appellant(s): Mr.Niraj Sheth

For Respondent(s): Mr.T.Ravikumar
Senior Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

This Tax Case (Appeal) relating to assessment year 2006-07 has been filed at the instance of the assessee assailing order dated 28.09.2012 passed by the Income Tax Appellate Tribunal (in short 'ITAT"/'Tribunal').

2. We have heard the detailed submissions of Mr.Niraj Sheth, learned counsel appearing for Mr.O.R.Santhanakrishnan, learned counsel on record for the appellant/assessee and Mr.T.Ravikumar, learned Senior Standing Counsel appearing for the respondent/revenue.

3. The substantial questions of law that had been admitted on 19.06.2013 are taken up for consideration in seriatim. The first and second substantial questions of law read as follows:

> *1. Whether the Income Tax Appellate Tribunal erred in holding that the appellant was not entitled to the exemption under Section 10(23G) of the Act in respect of Legal Fees and Lenders Agency Fees?*
>
> *2. Whether the Income Tax Appellate Tribunal ought to have held that Legal Fees and Lenders Agency Fees were entitled to the exemption under Section 10(23G) of the Act inter alia as such receipts fell within the definition of "interest" in Section 2(28A) of the Act?*

4. The appellant had sought exemption under Section 10(23G) of the Income Tax Act, 1961 (in short 'Act') in respect of legal fees, charged by the

appellant for the documentation done in connection with the provision of long term finance to clients. The claim of the appellant was that it would come within the definition of 'interest' under Section 2(28A) which reads as follows:

> *(28A) "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or 8 in respect of any credit facility which has not been utilised.*

5. Upon a perusal of the definition 'interest', we are of the considered view that the term is wide and brings within its coverage moneys that are charged in respect of borrowals or debts incurred including 'other charges' in respect of the same. In fact, the definition is wide enough to address even credit facilities that have not been utilised.

6. The adverse order of the Assessing Authority on this issue was carried in appeal before the Commissioner of Income Tax (Appeals), who allows the appeal. The Tribunal has, however, reversed the order of the Commissioner of Income Tax (Appeals) being of the view that legal fees could not be considered as part of service fee or other charges as the incidence of service fee and other charges referred to under Section 2(28A) would relate only to those moneys recovered after the disbursement of loan.

7. This conclusion does not appeal to us as this is not the ground on which the claim was rejected in assessment. That apart, commercial practice

dictates that moneys are recovered at different stages at the time of disbursement of loan. In fact, appraisal fee and front end commission are collected by the Bank even prior to actual disbursement in respect of services rendered for appraisal of the creditworthiness of the borrower, and other preliminary services.

8. This claim, in relation to front end fee and appraisal fee was also the subject matter of appeal and this claim has been accepted by the Tribunal in the very order under appeal at paragraph 15.1. Front end fees, charged at the time of disbursement of loan is akin to initial appraisal fee, appraising the feasibility of the credit transaction. The Tribunal thus finds that the claim in respect of front end and appraisal fees is to accepted as the credit worthiness of the borrower has to be tested and verified before sanction of any loan.

9. Having accepted the eligibility in regard to appraisal and front end fees, both of which are charged prior to disbursement, the Tribunal ought not to have deviated from their position which it came to legal fees. In light of the discussion as aforesaid, the substantial questions of law relating to legal fees are answered in favour of the appellant and adverse to the revenue.

10. As far as Lenders Agency Fee is concerned, the appellant has not put forth an explanation in regard to the nature of the Lenders Agency Fee either at the time of assessment or before the appellate authorities. In fact, the adverse

conclusion of the Tribunal is on this ground, as no material was placed before the Tribunal to substantiate the nature of fee received under this head. In such circumstances, we do not find any question of law much less substantial question of law, that arises for consideration with regard to Lender's Agency fee and hence, this issue is answered adverse to the appellant.

11. The third substantial question of law reads as follows:

> *3. Without prejudice to above and in the alternative whether on the facts and in the circumstances of the case, the Tribunal ought to have held that the Legal Fees and Lenders Agency Fees were eligible for deduction under Section 36(1)(viii) of Act since the above amounts were earned from long term finance provided to infrastructure enterprises and in the event the income derived from such long term finance was not treated as "interest" eligible for exemption under Section 10(23G), the same were "profit" derived from business of long term finance of infrastructure facility and hence eligible for deduction under Section 36(1)(viii)?"*

12. Learned counsel for the appellant makes an endorsement not pressing this substantial question of law. Hence, and recording the endorsement made, this substantial question of law is returned unanswered.

13. This Tax Case (Appeal) is partly allowed. No costs.

(A.S.M.,J.) (M.S.K.,J.)
20-01-2026

Index: Yes
Speaking order
Neutral Citation: Yes
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DR.ANITA SUMANTH J.

AND

MUMMINENI SUDHEER KUMAR J.

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To

1. The Assistant Commissioner Of
   Income Tax, Company Circle II(3), Chennai.
2. The Income Tax Appellate Tribunal, Chennai “C” Bench, Chennai.

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