

Cit Vs. State Bank of Indore Bench

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Court : Madhya Pradesh

Decided On : Nov-04-2004

Reported in : [2005]144TAXMAN348(MP)

Appeal No. : IT Ref. No. 33 of 1999 4 November 2004 A.Ys. 1985-86 & 1986-87

Appellant : Cit

Respondent : State Bank of Indore Bench

Advocate for Pet/Ap. : R.L. Jain with Ku. V. Mandlik, *for the Revenue* R.T. Thanewala, *for the Assessee*

Judgement :
ORDER

A.M. Sapre, J.

This is an income-tax reference made under section 256(1) of the Income Tax Act at the instance of revenue (CIT) in RA Nos. 154 & 155/Ind/1997 arising out of an order dated 5-8-1997, passed by Tribunal in ITA Nos. 210 & 211/Ind/1992 for answering following two questions of law which arise out of an order passed by the Tribunal in aforementioned order (5-8-1997) :

'1. Whether, on the facts and circumstances of the case, the learned Tribunal was justified in directing the allowance of interest on suspense account amounting to

Rs. 1,37,13,839 for assessment year 1985-86 and Rs. 48,19,674 for assessment year 1986-87 following the Tribunals order dated 23-5-1997 in the assessee's case in Intt. Tax Appeal Nos. 1 & 2/Ind/1993 for assessment years 1985-86 & 1986-87 which was not accepted by revenue.

2. Whether, on the facts and in the circumstances of the case, the learned Tribunal was justified in confirming the order of the CIT (A), directing the assessing officer that no part of interest paid by the assessee should be reduced from the gross amount of dividend income earned by the assessee and the deduction on account of collection charges should be restricted to 10 paise per Rs. 100 of dividend income earned and deduction under section 80M should be allowed accordingly ?'

2. Heard Shri R.L. Jain, learned senior counsel with Ku. V. Mandlik, learned counsel for the revenue, and Shri R.T. Thanewala, learned counsel for assessee.

3. At the outset, learned counsel for the assessee brought to our notice that so far as question No. 1 is concerned, the same has been answered by this court in the case of this very assessee in State Bank of Indore v. CIT : [2002]257ITR463(MP) . According to learned counsel, in fact, the question referred stands answered by the decision of Supreme Court in the case of UCO Bank v. CIT : [1999]237ITR889(SC) .

4. In these two decisions referred supra, the question was, while assessing the income accrued by way of interest on 'sticky' loan, the notional interest which is transferred to a suspense account pertaining to doubtful loans would not be included in the income of assessee, if for three years : such interest is not actually received by an assessee This question was answered by the Supreme Court in favour of assessee. Relying upon this decision, this court in the case of this very assessee decided the question in favour of assessee in the case in : [2002]257ITR463(MP) (supra).

5. In the present case also this very question is referred at the instance of revenue. In our opinion, we cannot take contrary view than what we have already expressed in : [2002]257ITR463(MP) (supra) which is, in fact, based on the Supreme Court decision in : [1999]237ITR889(SC) (supra). Indeed, the

controversy in relation to this question has since been settled by the decision of Supreme Court in the case in : [1999]237ITR889(SC) (supra) the issue or the question need not be referred to this court for answer on merits. The law laid down by Supreme Court is binding on all courts. Tribunal and judicial authorities by virtue of Article 141 of Constitution. No court in the country including High Court can decide the issue contrary to law laid down by Supreme Court. In this view of the matter, there arise no occasion for the Tribunal to make reference to this court on a question which stands settled by the highest court of land. It then ceases to be question. Rather it becomes a law to be followed by all taxing authorities in its right earnest. We, therefore, answer the question No. 1 against the revenue and in favour of assessee.

6. So far as question No. 2 is concerned, the same is also covered and stands decided against the revenue and in favour of assessee by this court in the case of this very assessee in IT Ref. 21 of 1999

7. Reference is accordingly answered as above on both the questions. No costs.