

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"D" BENCH, CHENNAI

श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री वी. दुर्गा राव, न्यायिक सदस्य केसमक्ष

BEFORE SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER AND
SHRI V. DURGA RAO, JUDICIAL MEMBER

आयकर अपील सं./ITA No.2752/Mds/2014

निर्धारण वर्ष /Assessment Year : 2006-07

M/s Citi Financial Retail Services

(I) Ltd.

[Now merged with Citicorp
Finance (India) Limited],
117, Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

v. The Assistant Commissioner of
Income Tax,
Company Circle I(3),
Chennai - 600 034.

PAN :AAACN 2379 N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri V.S. Jayakumar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri N. Madhavan, JCIT

सुनवाई की तारीख/Date of Hearing : 24.02.2015

घोषणा की तारीख/Date of Pronouncement: 05.03.2015

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-I, Chennai, dated 28.07.2014 relevant to the assessment year 2006-07.

2. Facts in brief are that the assessee is engaged in the business of financing. The assessee has made a claim of bad debts written off to the tune of ₹ 12,20,10,010/- and also has claimed accrual of interest. The A.O. has disallowed both the claims of the assessee. The Ld. CIT(Appeals) by following the order of the Tribunal in the assessee's own case for assessment year 2005-06, has confirmed the order of the A.O.

3. On being aggrieved, the assessee carried the matter in appeal before the Tribunal. At the time of hearing, the Ld.counsel for the assessee submitted that the issues involved in this appeal had been considered by Hon'ble jurisdictional High Court in the case of M/s Citi Financial Retail Services India Ltd. & M/s City Corp Finance (India) Ltd. v. ACIT in T.C.(A).Nos.1136 of 2009, 399 of 2009, 184 of 2014 and 737 of 2014 dated 22.09.2014 wherein the Hon'ble jurisdictional High Court has sent the matter back to A.O. to consider in accordance with law. The Ld. counsel submitted that the assessee's case is similar to that of the case remitted by the Hon'ble jurisdictional High Court. He pleaded that by following the judgment of the Hon'ble jurisdictional High Court, the assessee's case may be remitted back to A.O. to consider the issues afresh.

4. On the other hand, Ld. D.R. supported the orders of the authorities below.

5. We have heard both sides and perused the records and gone through the orders of the authorities below. The assessee has made claims before the A.O. regarding bad debts and also accrual of interest. The A.O. has denied the claims of the assessee and the Ld. CIT(Appeals) confirmed the same by following the order of the Tribunal in assessee's own case. As submitted by the Ld.counsel for the assessee, these issues have to be remitted to A.O. in the light of the judgment of the Hon'ble jurisdictional High Court in the case of M/s Citi Financial Retail Services India Ltd. & M/s City Corp Finance (India) Ltd. v. ACIT (supra), wherein the Hon'ble jurisdictional High Court has remitted the issues back to the A.O. vide paragraphs 15, 16 and 17 which are extracted as under:-

“15. In view of the law laid down in the case of (TRF Ltd. vs Commissioner of Income Tax) reported in (2010) 323 ITR 397 we have no hesitation to hold that “bad debts” if written off, on the accounts of the assessee and appropriately claimed before the competent authority, the authorities are bound to consider the same in the light of the decision of the Hon'ble Supreme Court.

16. The issue as to whether the claim of the assessee seeking allowance for debts written off as irrecoverable, irrespective of whether they are written off after 180 days or after 120 days as per the changed management policy in respect of each assessment year needs to be tested in the light of the decision of the Hon'ble Supreme Court. To that extent we hold that the decision of the Original Authority,

Commissioner of Income Tax (Appeals) and that of the Income tax Tribunal requires reconsideration.

17. In order to cut short the litigation taking cue from the plea of Mr. T. Ravikumar, learned counsel appearing for the Department, we are inclined to set aside the order and remit the matter to the Commissioner of Income Tax (Appeals) to reconsider the assessment proceedings, as the first appellate authority who is entitled to consider the assessment order as continuation of original proceedings.”

6. In view of the above, we set aside the order of the Ld. CIT(Appeals) and remit the issues back to the file of the A.O. to decide the issues afresh in accordance with law keeping the judgment of the Hon'ble jurisdictional High Court in the case of M/s Citi Financial Retail Services India Ltd. & M/s City Corp Finance (India) Ltd. v. ACIT (supra) into consideration and after giving reasonable opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on Thursday, the 5th of March, 2015 at Chennai.

Sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member
चेन्नई/Chennai,

दिनांक/Dated, the 5th March, 2015.

Kri.

sd/-

(वी. दुर्गा राव)

(V. Durga Rao)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-I, Chennai
4. आयकर आयुक्त/CIT, Chennai-1, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.