

आयकर अपीलिय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Laliet Kumar, Judicial Member
AND
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.474/Hyd/2017**
(निर्धारण वर्ष / Assessment Year: 1994-95)

State Bank of India (Successor of State Bank of Hyderabad) Hyderabad PAN:AADCS4009H	Vs.	Dy. C. I. T. Circle 3(2) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri Ketan K Ved, CA	
राजस्व द्वारा/Revenue by:	Shri K. Meghnath Chowhan, DR	
सुनवाई की तारीख/Date of hearing:	22/05/2024	
घोषणा की तारीख/Pronouncement:	27/05/2024	

आदेश/ORDER

Per Laliet Kumar, J.M

This appeal filed by the assessee is directed against the order dated 4-12-2016 of the learned CIT (A)-3, Hyderabad relating to A.Y.1994-95.

2. At the outset, the learned AR for the assessee drew our attention to the decision of the Hon'ble jurisdictional High Court in assessee's own case whereby the Hon'ble High Court has

reversed the order of the Tribunal in ITTA No. 131/2004 order dated 04.01.2023 and held as under:

“8. Thus, it has been held that interest can be said to have accrued only on the date on which it was due as per the terms and conditions of the security. When an instrument or an agreement stipulates interest to be payable at specified date, interest does not accrue to the holder thereof on any date prior thereto. Interest would accrue or arise only on the date specified in the instrument. This decision of the Bombay High Court was followed by the same High Court in Commissioner of Income Tax v. State Bank of India. One of the substantial questions of law which was considered by the Bombay High Court was whether Tribunal was right in law in accepting the plea of the assessee that the interest income of Rs.38.24 crores on the securities had to be taxed on due basis only instead of accrual basis as per the mercantile system of accounting followed by the assessee. Insofar this question is concerned, Bombay High Court referred to its previous decision in Credit Suisse First Boston (Cyprus) Limited (1 supra) and held that issue stands concluded against the revenue and in favour of the assessee.

9. Learned counsel for the appellant submits that against the aforesaid decision of the Bombay High Court in State Bank of India (2 supra), revenue preferred SLP(C).No.24250 of 2017, 22016 SCC Online Bombay 9749 which was subsequently registered as Civil Appeal No.4357 of 2018. The said appeal was heard and decided by the Supreme Court along with other civil appeals which have since been reported in Deputy Commissioner of Income Tax v. T. Jayachandran.

10. Learned counsel for the appellant fairly submits that though in the body of the judgment there is no discussion on the issue as to the finding of the Bombay High Court that the interest income on securities has to be taxed on due basis, nonetheless, by the aforesaid decision, the appeals preferred by the revenue were dismissed.

11. Be that as it may, we concur with the view expressed by the Bombay High Court in M/s. Credit Suisse First Boston (Cyprus) Ltd (1 supra) followed by the decision in State Bank of India”

3. In the light of the above, it was submitted that the appeal of the assessee has become infructuous and the Assessing

Officer is required to give effect to the decision of the Hon'ble High Court (Supra) in assessee's own case. It was also submitted that the learned CIT (A) while adjudicating the other grounds has travelled beyond the directions given by the Tribunal in ITA No.225/Hyd/1999 dated 25/06/2004 and therefore, the fresh claim of the Revenue is not sustainable.

4. Per contra, the learned DR had submitted that the entire matter may kindly be remitted back to the file of the Assessing Officer for giving effect to the order of the Hon'ble High Court subject to the right of the Revenue by filing appeal before the Hon'ble Supreme Court.

5. We have heard the rival arguments made by both the sides and perused the material available on record. In the present case, the Tribunal vide its earlier decision dated 25/06/2004 has decided the issue against the assessee. The Hon'ble jurisdictional High Court by the above said judgment dated 04.01.2023 has reversed the findings of the Tribunal and held that the interest is to be calculated when it became due as per the instrument. In the light of the above, we deem it proper to remand the issue back to the file of the Assessing Officer with a direction to comply fully the decision of the Hon'ble High Court.

6. With respect to the ground of making addition of Rs.16.03 crores on account of difference in income from investment admitted in P&L Account, we are of the considered opinion that the issue is intrinsic linked with other grounds

raised before us. Therefore, we deem it proper to remand this issue also to the file of the Assessing Officer for giving effect to the judgment of the Hon'ble High Court.

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

Order pronounced in the Open Court on 27th May, 2024.

Sd/- (MANJUNATHA, G) ACCOUNTANT MEMBER	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 27th May, 2024

Vinodan/SPS

Copy to:

S.No	Addresses
1	State Bank of India (Successor of State Bank of Hyderabad) Accounts and Service Deptt. Gunfoundry, Hyderabad
2	Dy. CIT, Circle 3(2) Hyderabad
3	Pr. CIT -3, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order