In the High Court of Judicature at Madras

Dated: 17.09.2014

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The Honourable **Mr.JUSTICE R.SUDHAKAR**
and
The Honourable **Mr.JUSTICE G.M.AKBAR ALI**

Tax Case (Appeal) Nos.805 and 806 of 2013
& M.P.Nos.1 and 1 of 2013

Commissioner of Incometax
Trichy
.... Appellant in both T.C.(A)s

vs.

The Karur Vysya Bank Ltd.,
Erode Road, Karur - 639 002.
.... Respondent in both T.C.(A)s

APPEALs under Section 260 A of the Income Tax Act against the order dated 30.1.2013 made in I.T.A.Nos.905 & 906/Mds/2010 on the file of the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai.

For Appellant : Mr.J.Narayanasamy
Standing counsel for Income Tax

For Respondent: Mr.N.Quadir Hoseyn

C O M M O N J U D G M E N T

(Delivered by R.SUDHAKAR,J.)

The above Tax Case (Appeals) are filed by the Revenue as against the order of the Income Tax Appellate Tribunal for the assessment year 2002-03 raising the following substantial question of law:

> *"Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the expenditure on software is not capital and thereby allowing the assessee's claim for deduction of revenue expenditure?"*

2. The assessee/respondent in both the appeals, which is a bank, claimed the cost of software as Revenue Expenditure in the return of income. The Assessing Officer rejected the said claim and treated the same as capital expenditure holding that though the software designed changes year after year, but it was durable for at least four years and once, it was designed, the assessee could use it for the next three years and therefore, the cost of software has to be treated as Capital expenditure in the nature of acquisition of Plant and Machinery under Section 43(3) of the Income Tax Act. Aggrieved by the order of the Assessing Officer, the assessee filed an appeal before the Commissioner of Income Tax (Appeals), who by following the decision of this Court reported in ***(2008) 304 ITR 84 (Commissioner of Income Tax V. Southern Roadways Ltd.)*** granted the relief in favour of the assessee. Aggrieved by the same, the Revenue preferred an appeal before the Tribunal, which confirmed

the order of the Commissioner of Income Tax (Appeals). Aggrieved by the same, the Revenue is before this Court raising the substantial question of law referred supra.

3. Both the learned standing counsel appearing for the Revenue and the learned counsel appearing for the assessee fairly submits that issue involved in the above appeals is covered by a decision of this Court reported in ***(2008) 304 ITR 84 (Commissioner of Income Tax V. Southern Roadways Ltd.)***, wherein this Court, while considering the issue whether the expenditure incurred on the software package is a revenue expenditure, held as follows:

> *"For the assessment years 1995-96 to 1997-98, the assessee claimed the expenditure incurred on software packages as revenue expenditure, but the same was disallowed by the Revenue. The concept of enduring benefit must respond to the changing economic realities of the business. The expenses incurred by installation of software packages in the present computer world, which revolves on the modern communication technology, enables the assessee to carry on its business operations effectively, efficiently, smoothly and profitably. However, such software itself does not work on a stand alone basis. It has to be*

G.M.AKBAR ALI,J.

fitted to a computer system to work. Such software enhances the efficiency of the operation. It is an aid in the manufacturing process rather than the tool itself. Therefore, the payment for such application software, though there is an enduring benefit, does not result in acquisition of any capital asset and it merely enhances the productivity or efficiency and hence, has to be treated as revenue expenditure. In view of the above, we hold that the Tribunal had rightly held that the expenditure incurred on software packages as a revenue expenditure."

4. Following the above-said decision of this Court, we find no question of law much less substantial question of law that arises for our consideration in these appeals. Accordingly, the tax case appeals stand dismissed. Consequently, M. P. Nos. 1 and 1 of 2013 are closed.

Index : Yes/No (R.S.,J) (G.M.A.,J)
Internet:Yes/No 17.09.2014
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To
1. The Income Tax Appellate Tribunal, Madras "A" Bench, Chennai.
2. The Commissioner of Income Tax (Appeals), Tiruchirappalli.
3. The Assistant Commissioner of Income Tax, Company Circle - I, Trichy.

T.C.(A) Nos.805 and 806 of 2013
& M.P.Nos.1 and 1 of 2013