

ITA No. 780 of 2007  
G.A.No.3752 of 2007  
IN THE HIGH COURT AT CALCUTTA  
Special Jurisdiction(Income Tax)  
ORIGINAL SIDE

COMMISSIONER OF INCOME TAX, CENTRAL-III, Plaintiff/Petitioner/Applicant  
KOLKATA

Versus

MCC INVESTMENT & LEASING COMPANY LTD Defendant/Respondent

For Plaintiff/Petitioner : Mr. F. Ghaffar, Advocate

For Defendant/Respondent :

BEFORE:

The Hon'ble JUSTICE PINAKI CHANDRA GHOSE

The Hon'ble JUSTICE SANKAR PRASAD MITRA

Date : 7th February, 2008.

**The Court :** After hearing Mr. Ghaffar, learned Advocate for the petitioner and perusing the application for condonation of delay, we are satisfied with the grounds stated in the petition. Accordingly, the delay is condoned and the application under section 5 of the Limitation Act being G.A.No.3752 of 2007 is disposed of.

We now take up the application for admission of the appeal. We have perused the order passed by the learned Tribunal. The only question arose in this matter is, whether the Assessing Officer was right in charging interest under section 12A of the Income Tax Act, 1961 because the assessment was made after invoking the provision of section 19 of the Act, and sub-section (4) of section 12A of the Act does not provide for charging any interest in consequence of an assessment made in pursuance of an order under section 19 of the Act and/or under sections 263 and 264 of the Act, inasmuch as no interest was charged in course of regular assessment made under the provisions of the Act.

The Commissioner of Appeals deleted the interest charged under sections 12 and 12A of the act on the assessee and from that order an appeal was preferred before the learned Tribunal. We have perused the order passed by

the Tribunal. It appears that the Assessing Officer accepted the fact that the principal business of the assessee does not fall under the category of Section 5(5a) of the Act. The CIT invoking section 19 of the Act cancelled the assessment made by the Assessing Officer and directed the Assessing Officer to levy interest treating the assessee as financial institution. It was urged before the learned Tribunal as well as before us that the order determining the assessee as financial company within the frame of section 2(5B)(iv) was justified and therefore, the tax levied was properly imposed. It appears that the learned Tribunal dealt with the matter extensively and thereafter came to the conclusion that the assessee does not fall under the definition of section 2(5B)(iv) of the Act and therefore the assessed is not liable for interest tax as levied by the department. It is also expressed by the learned Tribunal that the assessee has no taxable interest under the Act and accordingly the interest charged under section 12 was directed to be deleted. We, therefore, have found that the Tribunal has extensively dealt with the matter including the facts, materials and evidence before the Tribunal for adjudication. We do not find any reason to interfere with the order so passed by the learned Tribunal nor the order so passed by the learned Tribunal suffers from any legal infirmity nor we find that any substantial question of law is involved in this appeal. Hence, the appeal being ITA No. 780 of 2007 is dismissed.

All parties concerned are to act on a signed copy of the minutes of this order on the usual undertakings.

Urgent xerox certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(PINAKI CHANDRA GHOSE, J.)

(SANKAR PRASAD MITRA, J.)

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RO(Ct)