

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). /2016

(Arising out of Special Leave Petition (C) No(s). 13512/2012)

M/S.STANDARD CHARTERED FINANCE LTD.

PETITIONER(S)

VERSUS

COMMISSIONER OF INCOME TAX,
BANGALORE & ANR.

RESPONDENT(S)

O R D E R

Leave granted.

The matter is heard finally with the consent of the learned counsel for the parties. The issue for consideration relates to the Assessment Year 1997-98 under the Interest Tax Act, 1974 (hereinafter referred to as 'the Act'). The admitted facts are that on the return filed by the appellant/assessee for this Assessment Year, no assessment order was passed. However, much after the last date of the Assessment Year is over, the Assessing Officer sought to re-open the assessment by issuing notice under Section 10 of the Act and thereafter proceeded to re-assess the interest chargeable under the aforesaid Act. The matter was carried in appeal by the assessee. The main contention of the assessee was that when there was no assessment order even passed in the original proceedings there was no question of re-opening the so-called assessment and make the re-assessment. The Commissioner of Income Tax (Appeals) accepted the aforesaid contention and set aside the re-assessment order. This order was upheld by the Income Tax Appellate Tribunal (hereinafter referred to as 'the Tribunal') as well. However, in

further appeal filed by the Revenue before the High Court, the High Court has reversed the view taken by the Tribunal holding that even if there was no original assessment order passed under Section 10 of the Act, there could be re-assessment. We may note that the assessee had relied upon various judgments in support including the judgment of this Court in Trustees of H.E.H. The Nizam's Supplemental Family Trust v. CIT [2000]242 ITR 381 SC. The High Court has held that the said judgment would not govern the case at hand.

After hearing the learned counsel for the parties, we are of the opinion that the High Court has wrongly not acted upon the ratio laid down in Trustees of H.E.H. The Nizam's Supplemental Family Trust's which squarely applies in the instant case in favour of the assessee. The ratio of the said judgment is that in those situations where there is no assessment order passed, there cannot be a notice for re-assessment inasmuch as the question of re-assessment arises only when there is an assessment in the first instance.

We, thus, allow this appeal and set aside the order passed by the High Court.

.....J.
[A.K. SIKRI]

.....J.
[PRAFULLA C. PANT]

NEW DELHI;
FEBRUARY 09, 2016

ITEM NO.9

COURT NO.12

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 13512/2012

(Arising out of impugned final judgment and order dated 12/01/2012 in ITA No. 1160/2006 passed by the High Court Of Karnataka At Bangalore)

M/S.STANDARD CHARTERED FINANCE LTD.

Petitioner(s)

VERSUS

COMR.OF INCOME TAX,BANGALORE & ANR.

Respondent(s)

WITH

SLP(C) No. 14512/2012

SLP(C) No. 14711/2012

SLP(C) No. 14848/2012

SLP(C) No. 14858/2012

SLP(C) No. 16074/2012

Date : 09/02/2016 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Ms. Shashim Kapila, Adv.
Mr. Pravesh Sharma, Adv.
Mr. Sushil Kumar, Adv.
Mr. Sanjay Kumar, Adv.
Mr. Vikas Mehta, Adv.

For Respondent(s) Mr. Arijit Prasad, Adv.
Ms. Gargi Khanna, Adv.
Mrs. Anil Katiyar, Adv.
Mr. B.V. B. Das, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Special Leave Petition(C) No(s). 13512/2012

Leave granted.

The civil appeal is allowed in terms of the signed order.

SLP(C) No. 14512/2012, SLP(C) No. 14711/2012, SLP(C) No. 14848/2012,, SLP(C) No. 14858/2012, SLP(C) No. 16074/2012.

List the matters on 01/03/2016.

(Ashwani Thakur)
COURT MASTER

(Tapan Kr. Chakraborty)
COURT MASTER

(Signed order is placed on the file)