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ITEM NO.4 COURT NO.1 SECTION IIIA

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2134 OF 2007

M/S. NORTHLAND DEV. & HOTEL CORPORATION Appellant (s)

VERSUS

C.I.T., AGRA Respondent(s)

(With appln(s) for directions and office report)

Date: 18/09/2012 This Appeal was called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Appellant(s) Mr. Preetesh Kapur,Adv.
Ms. Bhakti Pasrija,Adv.
Mr. Prakhar Sharma,Adv.
Ms. Anu Gupta,Adv.
Mr. Sanjeev Kumar Sharma,Adv.

For Respondent(s) Mr. R.P. Bhatt,Sr.Adv.
Mr. Fuzail A. Ayyubi,Adv.
Mr. Vikas Malhotra,Adv.
Ms. Anil Katiyar,Adv.
for Mr. B.V. Balaram Das,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel on both sides.

The civil appeal is allowed with no order as to costs.

[T.I. Rajput] [Indu Satija]
A.R.-cum-P.S. Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2134 OF 2007

M/s. Northland Development & Hotel Corporation ...Appellant(s)

Versus

Commissioner of Income Tax, Agra ...Respondent(s)

O R D E R

Heard learned counsel on both sides.

In the present case, the assessee took loan from Citi Bank N.A. to buy a hotel [capital asset]. Default was committed in re-payment of loan. Suit was filed for recovery, which was settled by signing consent decree on 30th April, 1982. The consent decree recites that the borrowers acknowledge their liability to the plaintiff-Bank in the sum of Rs.42,45,477/-, being the outstanding amount in the loan account of the Bank as on 30th April, 1982. However, it appears that, in the Books of Accounts of the assessee, the outstanding amount repayable to the Bank was Rs.52,07,873/- as on 30th April, 1982. Consequently, the Department came to the conclusion that there was waiver by the Bank to the extent of approximately Rupees ten lakhs. This amount was sought to be taxed by the Department. We are not concerned with the taxability of the said sum of Rupees ten lakhs. The Department initiated proceedings under Section 271(1)(c) of the Income Tax Act, 1961, against the assessee. It is true that, in the Books of Accounts of the assessee, the outstanding amount, as on 30th April, 1982, was Rs.52,07,873/-, including interest. However, the decree in

...2/-

favour of the Bank was for Rs.42,45,477/- because that was the amount indicated as the outstanding amount due and payable by the assessee to the Bank in its Books of Account. It appears that the Bank has not calculated the interest over the years possibly for the reason that, in its Accounts, this amount was classified as ‘NPA’.

In the peculiar facts and circumstances of this case, Section 271(1)(c) of the Income Tax Act, 1961, is not applicable.

Accordingly, the civil appeal filed by the assessee is allowed with no order as to costs.

.......................CJI.
[S.H. KAPADIA]

.........................J.
[MADAN B. LOKUR]

New Delhi,
September 18, 2012.
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