

(2009) 01 KAR CK 0078
In the Karnataka High Court
Case No : Income Tax A. No. 78 of 2008

Commissioner of Income Tax and Another	APPELLANT
Vs	
Karnataka Urban Infrastructure Development and Finance Corporation	RESPONDENT

Date of Decision : 09-01-2009

Acts Referred:

Income Tax Act, 1961 — Section 260 A

Citation : (2009) 315 ITR 301

Hon'ble Judges : K. Ramanna, J;Deepak Verma, J

Bench : Division Bench

Advocate : M.V. Seshachala, for the Appellant;

Final Decision : Dismissed

Judgement

Deepak Verma, J.—Sri M.V. Seshachala, learned Counsel appeared on behalf of the appellants.

2. Heard on admission. Records perused.

3. The Revenue is in appeal u/s 260A of the Income Tax Act, 1961, against the order dated September 7, 2007, passed by the Income Tax Appellate Tribunal, Bangalore Bench "B", in Appeal I.T.A. No. 1106/Bang/ 06 for the assessment year 2003-04.

4. The appellants had approached the Tribunal challenging the order passed by the Commissioner of Income Tax (Appeals) in deleting the interest income brought to tax amounting to Rs. 22,55,82,940. It is not in dispute that the assessee is a nodal agency and is not carrying on any business of its own. It is only an implementing agency. The money received from the bank and interest accrued thereon is parked with the assessee for implementation of the scheme entrusted to it. It is not carrying on business activities of its own and every rupee received by it is accounted for.

5. An identical question had come up for consideration before a Division Bench of this Court in Commissioner of Income Tax and Another Vs. Karnataka Urban Infrastructure Development and Finance Corporation, , I.T.A. No. 2418 of 2005 between the same parties, decided on February 21, 2006. The said judgment has been placed for consideration before us and we have gone through it. Essentially, the Tribunal has also placed reliance on the said judgment and accordingly held in favour of the assessee.

6. We have no doubt in our mind that the said judgment squarely covers the issue involved in this appeal. It has been held by the Division Bench of this Court in the aforesaid judgment in the relevant paragraph as under (page 584):

The material on record shows that the very purpose of constitution of the assessee was to act as a nodal agency for implementation of the mega city scheme worked out by the Planning Commission. Both the Central and the State Governments are expected to provide requisite finances for implementation of the said project. The funds from the Central and State Governments will flow directly to the specialised institutions/nodal agencies as grant and the nodal agency will constitute a revolving fund with the help of Central and State shares out of which finance could be provided to various agencies such as water, sewerage boards, municipal corporations, etc. The objective is to create and maintain a fund for the development of infrastructural assets on a continuing basis and, therefore, the assessee is a nodal agency formed/created by the Government of Karnataka as per the guidelines ; there is no profit motive as the entire fund entrusted and the interest accrued therefrom on deposits in bank though in the name of the assessee has to be applied only for the purpose of welfare of the nation/States as provided in the guidelines ; the whole of the fund belongs to the State Exchequer and the assessee has to channelise them to the objects of the Centrally sponsored scheme of infra-structural development for the mega city of Bangalore. Funds of one wing of the Government are distributed to the other wing of the Government for public purpose as per the guidelines issued. The monies so received, till they are utilised, are parked in a bank. The finding recorded by the Tribunal clearly shows that the entire money in question is received for implementation of the scheme which is for a public purpose and the said scheme is implemented as per the guidelines of the Central Government and, therefore, the assessee is only acting as a nodal agency of the Central Government for implementation of these projects. It is not the case of the Revenue that the assessee was carrying on any business or activities of its own while implementing the scheme in question. The unutilised money, during which the project could not be fully implemented, is deposited in a bank to earn interest. That interest earned is also again utilised for the implementation of the mega city scheme which is also permitted under the scheme. Therefore, in computing the total income of the assessee for any previous year the interest accrued on the bank deposits cannot be treated as an income of the assessee as the interest is earned out of the money given by the Government of India for the purpose of implementation of the mega city scheme.

Therefore, we do not find any error in the conclusion reached by the Tribunal that there was no income earned by way of interest by the assessee and setting aside the order of the Assessing Officer which is affirmed by the first appellate authority. The finding given by the Tribunal is purely a question of fact. We do not find any substantial question of law involved in this appeal and, therefore, this appeal is liable to be dismissed at the stage of admission itself.

7. In the light of the aforesaid findings recorded by the Division Bench of this Court, we are of the considered opinion that there is no merit or substance in this appeal. No substantial question of law arises to be answered by this Court. Thus, the appeal is hereby dismissed.