(2007) 06 MAD CK 0039

In the Madras High Court

Case No : Tax Case (Appeal) No. 233 of 2007

Procon Systems Pvt. Ltd. APPELLANT

Vs

The Income Tax Officer RESPONDENT

Date of Decision : 05-06-2007

Acts Referred:
Income Tax Act, 1961 — Section 10B, 143(1), 143(3), 147, 260A

Citation : (2008) 296 ITR 636

Hon'ble Judges : P.P.S. Janarthana Raja, J;P.D. Dinakaran, J

Bench : Division Bench

Advocate : V.S. Jayakumar, for the Appellant;

Final Decision : Dismissed

Judgement

P.P.S. Janarthana Raja, J.—This appeal is filed u/s 260A of the Income Tax Act, 1961 by the assessee, against the order of the Income

Tax Appellate Tribunal, Bench ''B'', Chennai in I.T.A. No. 1546/Mds/2005 dated 28.09.2006 raising the following substantial question of law:

Whether the Tribunal was right in holding that the interest payment is not allowable u/s 57 of the Income Tax Act?

2. The facts leading to the above substantial question of law are as under:

The assessee is a Private Limited Company and is engaged in the manufacture and export of Computer Software relating to travelling industries.

The relevant assessment year is 2001-2002 and the corresponding accounting year ended on 31.03.2001. The assessee filed Return of income on

31.10.2001 declaring ""Nil"" income. The Return was processed u/s 143(1) of the Income Tax Act (""Act"" in short). Later, the case was selected for

scrutiny and also the assessment was reopened u/s 147 of the Act. The assessment was completed u/s 143(3) of the Act determining the total income at Rs. 7,35,210/-. While completing the assessment, the Assessing Officer rejected the assessee''s claim that interest paid has direct

relation with the interest received and hence the expenditure has to be allowed as deduction from the interest income. The Assessing Officer also

rejected the method of computation of income. Aggrieved by the order, the assessee filed an appeal to the Commissioner of Income Tax

(Appeals). The C.I.T.(A) allowed the appeal. Aggrieved, the Revenue filed an appeal to the Income Tax Appellate Tribunal (""Tribunal"" in short).

The Tribunal allowed the Revenue''s appeal and confirmed the order of the Assessing Officer. Hence the present tax case is filed by the assessee.

3. Learned Counsel appearing for the assessee submitted that the assessee has proved the nexus of the funds borrowed and invested in the bank

account and as per the principle of real income theory, the net income alone should be taxable. Further the counsel argued that in view of the real

income theory, the expenditure to earn income from other sources should have been allowed.

4. Heard the counsel. The assessee has admitted income in the Profit and Loss Account as under:

Sales : Rs. 1,33,81,157

Other income : Rs. 16,82,777

The assessee claimed the entire income as exempt u/s 10B of the Act. The details regarding the other income of Rs. 16,82,777/- are as follows:

(a) Exchange Fluctuation Gains : Rs. 9,47,568/-

(b) Interest on Deposits : Rs. 7,35,209/-

The Assessing Officer held that the interest on bank deposit does not qualify for exemption u/s 10B of the Act and hence proposed to assess the

same as income under the head ""Other Sources"". The assessee had obtained a loan of Rs. 1,03,12,750/- from Industrialisation Fund for

Developing Countries, Denmark on 27.08.1999 and on 14.03.2000. As the borrowed funds were not immediately required for business, they

were immediately invested in the bank deposits on 27.08.1999 and 16.03.2000, respectively. The assessee had incurred expenditure of Rs.

7,63,135/- representing the interest on the above loans and hence the same should be deducted from the interest received from the bank deposits

at the average rate. The working of the same are as under:

Interest on payment of IFU loan 7,63,135

Average balance of IFU loan 1,00,14,363

Rate of interest payments ""A"" 7.62%

Interest on Bank Fixed Deposits 7,35,209

Average balance of Bank FD 82,27,267

Rate of interest receipts ''B'' 8.93%

Profit margin (B-A) 1.31%

Profit on finance activities

Average balance of bank FD x Profit margin : 82,27,267 x 1.31 : 1,07,777

On the above basis, the assessee contended that only Rs. 1,07,777/- computed as above, should be assessed. Further it is contended by the

assessee that the interest paid has direct relation with the interest received and hence the expenditure has to be allowed as deduction from interest

income. It is not in dispute that the assessee had admitted that the expenditure on account of interest has already been debited to Profit and Loss

Account. Hence there is no separate deduction possible. When the assessee has already debited the expenditure in the Profit and Loss Account, it

is not proper for the assessee to claim a separate deduction. The reasons given by the Tribunal are based on valid materials and evidence and it is

not proper for the assessee to claim once again the interest income under ""income from other sources"", which has already been debited to Profit

and Loss Account.

5. Under these circumstances, we are of the view that the order passed by the Tribunal is in accordance with law and the same does not require

interference. Hence, no substantial question of law arises for consideration of this Court and accordingly, the tax case is dismissed. No costs.