Karnataka High Court
Addl. Commissioner Of Income-Tax vs Syndicate Bank (Formerly ... on 8 February, 1979
Equivalent citations: 1986 159 ITR 474 KAR, 1986 159 ITR 474 Karn
Author: Venkataramiah
Bench: D Chandrashekhar, E Venkataramaiah
JUDGMENT Venkataramiah, J.

1. These two references are at the instance of the assessee. The question referred by the Income-tax Appellate Tribunal, Bangalore Bench (hereinafter referred to as the Tribunal), in I.T.R.C. No. 162 of 1975 reads :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amortised interest of Rs. 20,39,036 of the Zamindari Abolition Bonds was not income liable for income-tax for the assessment year 1967-68 ?"

The question referred by the Tribunal in I.T.R.C. No. 163 of 1975 reads :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amortised interest of Rs. 16,24,030 of the Zamindari Abolition Bonds was not income liable for income-tax for the assessment year 1968-69 ?"

Both the above questions relate to the same assessee but for two different assessment years, namely, 1967-68 and 1968-69.

2. The facts of these two cases, as set out in the appellate order of the Tribunal are, briefly, as follows : The assessee-bank was holding a large block of U.P.Zamindari Abolition Bonds which it had purchased at a very low upset price. According to the scheme of those Bonds, the bond-holder was entitled to receive annual instalments for a stipulated number of years. The assessee-bank claimed that in order to spread over the future profits for a longer period and to provide for an "equitable basis" for taxation purposes. it got the entire investments amortised by a qualified actuary. This resulted in a surplus of Rs. 20,39,036 in the accounting year relevant to the assessment year 1967-68, which was the future profit after complete realisation of bonds spread over up to that year. The assessee-bank credited this entire amount to the head of income from interest, commission, etc., and made a balancing entry by crediting an account called "Investment Amortisation Account" to which the surplus amount was debited. The assessee-bank urged before the Income-tax Officer that this amount is not taxable as income as the assessee-bank had made only certain adjustments for its convenience and that taxability or otherwise of a particular item had to be determined independent of the manner in which adjustments were made by the assessee-bank.

3. How instalments received by a holder of such U.P.Zamindari Bonds, should be treated for the purpose of income-tax, was considered in Addl. CIT v. Maharashtra Apex Corporation Ltd. . The relevant portions in that order read :

"The real question that arises for determination in these references is whether the annual payments received by the assessee during these two years should be regarded as income receipts or capital receipts or partly as income receipts or partly as capital receipts. The answer to this question can be found in Andrew Scoblc v. Secretary of State for India [1903] 4 TC 618 (HL) in which the facts were very similar to those in the present case. There, the contract between the East India Company and the G.I.P. Railway Company provided that at the expiration of a certain period the East India Company had the option to give to the railway company the notice of its intention to purchase the railway and the works. The British Government which succeeded to the East India Company exercised such option. Thereupon, a compensation of pounds 34 million was paid in equal annual instalments spread over a number of years. A question arose whether income-tax was payable on the full amount of each annual instalment or only so much of it as represented income. In the Court of Appeal, Stirling L.J.observed that on the face of the contract, it appeared that each annual instalment contained principal money and a portion of interest which could be readily ascertained by a competent actuary. This view was affirmed by the House of Lords. Lord Lindley observed that such annual payment was nothing more than the payment of equal instalments of the purchase money with interest and that such instalments were not at all profits or gains but were partly payments of principal money and partly profit in the shape of interest.

In the light of the aforesaid elucidation, the annual instalments received by the present assessee should, in our opinion, be regarded as partly payment of the amount of compensation and partly interest thereon. In other words, the payment represented capital coupled with interest. As stated by Goddard L.J., in Southern Smith v. Clancy [1940] 24 TC 1 at page 12; [1941] 9 ITR (Supp) 73, 83 (CA), such annual payment should be dissected and tax should he charged on so much of it as represents interest only.......

In our opinion, the annual payments received by the assessee in respect of these bonds, represent partly capital and partly interest and income-tax is payable only on the portion representing interest. The income-tax authorities have to ascertain what proportion of such annual payments represents interest."

In the light of the foregoing, discussion. our answer to the question referred to us in I.T.R.C. No. 162 of 195 is as follows :

"On the facts and in the circumstances of the case the Tribunal was right in law in holding that the amortised interest of Rs. 20,39,036 of the Zamindari Abolition Bonds, was not income liable for income-tax for the assessment year 1967-68; but the Tribunal should have held that portion of the annual repayment received or receivable by the assessee during the accounting year relevant to the assessment year 1967-68,which represented interest, was assessable to tax under the Income-tax Act and the remaining portion of such annual repayment, which represented capital, was not assessable to such tax."

Our answer to the question referred to us in I.T.R.C. No.163 of 1975, is as follows.

"On the facts and in the circumstances of the case, the Tribunal was right in holding that the amortised interest of Rs. 16,24,030 of the Zamindari Abolition Bonds was not income liable for income-tax for the assessment year 1968-69, but the Tribunal should have held that portion of the annual repayment received or receivable by the assessee during the accounting year relevant to the assessment year 1968-69,which represented interest, was assessable to tax under the Income-tax Act and the remaining portion of such annual repayment which represented capital, was not assessable to such tax."

4. In the circumstances of these references, we direct the parties to bar their own costs.