

KERALA FINANCIAL CORPORATION ETC.
v.
COMMISSIONER OF INCOME TAX, KERALA
JANUARY 11, 1996
[KULDIP SINGH AND B.L. HANSARIA, JJ.]

Income-tax Act, 1961 :

Bad debts—Observation regarding refund of tax made in the main judgment at paras 9 to 15 deleted—On the advances being written off steps could be taken by the assessee in accordance with the relevant provisions relating to bad debts.

State Bank of Travancore v. Commissioner of Income Tax, [1986] 2 SCC 11=158 ITR 102, referred to and explained.

CIVIL APPELLATE JURISDICTION : I.A. Nos. 1 to 6.

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Civil Appeal Nos. 4636 to 4641 of 1994.

From the Judgment and Order dated 24.10.84 of the Kerala High Court in I.T.R. C. Nos. 279 and 280 of 1979.

J. Ramamurthy, B.B. Ahuja, R. Satish and B.K. Prasad for the Appellants.

P.S. Poti and N. Sudhakaran for the Respondent.

The Order of the Court was delivered by

HANSARIA, J.

These applications are by the respondent (revenue) in the afore noted appeals, which were disposed of by judgment dated May 12, 1994. It has been averred in these petitions that what was held in paras 9 to 15 of the judgment is not consistent with what was decided by the majority in *State Bank of Travancore v. Commissioner of Income Tax, [1986] 2 SCC 11 (158 ITR 102)*, which view was followed while disposing of the appeals. This

stand has been taken because what the majority had held in the aforesaid case was that in cases of 'sticky advances' what could really be done is that on the assessee writing off the advances, the same would become bad debt and could be so dealt by the assessee as permitted by the relevant section of the Income Tax Act. In aforesaid paras, however, it came to be stated that on the advances become bad debts, refund of tax paid on the interest could be claimed by the assessee in accordance with law. It is apparent that the majority in *State Bank of Travancore* had not said so. This is not disputed by Shri Poti who had appeared for the appellants.

It is accordingly stated that the observation made relating to refund of tax in the aforesaid paragraphs of the judgment would stand deleted. Instead, we state on the advances being written off, steps could be taken by the assessee in accordance with the provisions of the Income Tax Act relating to bad debts.

The applications are disposed of with these observations.

Applications are disposed of.