CA Final Direct Tax Case Laws (May-Nov 25 attempt)

Case Law 1: Bank of Rajasthan Ltd. vs CIT [2024] (SC)

Facts of the case (Question): In the present case, the assessee (a Scheduled Bank) involves in purchase and sale of government securities. It classified these securities as stock-in-trade in its books of account. The assessee consistently followed the method of setting off and netting the amount of interest paid by it on the purchase of securities [i.e., interest for the broken period ***(refer note below for the meaning of broken period)]*** against the interest recovered by it on the sale of securities and offering the net interest income to tax. This method was accepted in earlier assessments. However, the Commissioner of Income Tax (CIT) exercised revisional jurisdiction under section 263, holding that the broken period interest forms part of cost of acquisition and is not allowed as deduction.

Issue Involved: Whether interest paid by banks involved in purchase and sale of securities, for broken period on purchase of securities can be claimed as revenue expenditure?

Sol.: Relevant Provisions of Law:

1.Banks are required to purchase Government securities to maintain the Statutory Liquidity Ratio (SLR). As per RBI's guidelines, there are 3 categories of securities: HTM (Held to Maturity), AFS (Available for Sale) and HFT (Held for Trading).

2.Banks held AFS & HFT securities as stock-in-trade. Therefore, in these two categories of securities, the benefit of deduction of interest for the broken period will be available.

3.The HTM securities category are usually held for a long term till their maturity. HTM security is held as an investment, the deduction of interest broken period interest will not be available.

4.**Analysis/Conclusion/Decision:**

Accordingly, the Apex Court held that as the securities were treated as stock-in- trade, the interest on the broken period cannot be considered as capital expenditure and will have to be treated as revenue expenditure, and thus allowed as deduction.

In simple words,
If Purchaser Bank holds this security as SIT, broken period interest will be allowed as revenue expenses.
If security is held as Capital asset, then no deduction allowed.

Note *- When a Bank purchases a security on a date which falls between the dates on which the interest is payable on the security, the purchaser Bank, in addition to the price of the security, has to pay an amount equivalent to the interest accrued for the period from the last interest payment till the date of purchase. This interest is termed as the interest for the broken period.*

Suppose Due date of Interest is 31st march of every year and Purchaser bank want to purchase a security on 30.06.2024. Seller bank in this case will recover interest for the period from 31.03.2024 to 30.06.2024 in addition to sale of value of security.

This interest paid by Purchaser bank is known as broken period Interest

Case Law 2: PCIT vs. Adadyn Technologies (P.) Ltd. [2024] (SC)

Facts of the case (Question): The assessee is a company engaged in the business of rendering customized internet advertising services to advertisers which could be used on the Desktop. In order to develop its software, assessee had incurred certain expenditure. Due to rapid change in the technology, the application sought to be developed by the assessee had become obsolete and the assessee abandoned further development.

Issue Involved: Whether expenses incurred by Assessee towards development of software for advertisement, which, due to technological development, had to be abandoned, can be claimed as revenue exp ?

Sol.: Relevant Provisions of Law:

1.The High Court held that since the product abandoned, the assessee shall not get any enduring benefit.

2.In substance, assessee has incurred expenditure in these two years to develop a software but due to change in technology, it had to abandon the product.

3.In effect, it had lost money spent on this product. Accordingly, the High Court held that the assessee shall not get any enduring benefit and therefore, the expenditure was to be treated as revenue in nature.

4. **Analysis/Conclusion/Decision:**

The High Court ruled that since the software development was abandoned and did not provide any enduring benefit, the expenditure was revenue in nature. The Supreme Court dismissed the SLP filed by the Revenue, affirming the High Court's decision.

In simple words,
Yes Deduction allowed, since development expenses were related to existing business

Case Law 3: Johnson Matthey Public Limited Company vs. CIT (International Taxation) (2024) (Delhi)

Facts of the Case (Question): The assessee was a tax resident of the United Kingdom and engaged in manufacturing specialty chemicals. It entered into global corporate guarantee for the purpose of securing loans taken by its Indian subsidiaries from foreign banks. It received guarantee charges for extending such guarantee.

Issue Involved: Whether amount received as "Guarantee Fees" by foreign company from its Indian subsidiaries fall within definition of "interest"?

Sol.: Relevant provision of Law:

1. As per sec 2(28A), "interest" means interest payable on any moneys borrowed or debt incurred & includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.

2.Article 12(5) of India-UK DTAA defines "interest" to mean income from debt- claims of every kind, whether or not secured by mortgage, income from Government securities and income from bonds/debentures, bonds/debentures but shall not include item which is treated as distribution.

3.The word "interest" does not take into its fold any payments made to stranger to the privity of loan transactions, though such payments have to be made incidentally in relation to such loan. *(Jisse loan liya usko payment Karenge to Interest Bolenge par 3rd party ko pay karenge to interest nahi bolenge)*

Assessee is a stranger to the privity of loan transactions. Contract of loan is a different from the contract of guarantee.

4. **Analysis/Conclusion/Decision:**

The High Court held that the guarantee fee does not qualify as "interest" under section 2(28A) of the Income Tax Act or Article 12 of the India-UK DTAA. The court emphasized that the assessee was not a party to the loan transaction, and hence, the guarantee fee could not be classified as interest.

Note: Eg. A Ltd is Indian resident subsidiary of Apple Incorporation (NR).

A Ltd took loan from HDFC bank India, for which guarantee was given by Apple INC(NR)

For this guarantee, A Ltd is paying guarantee fees to its holding company, Apple INC

So This guarantee fees received by NR from resident subsidiary will not be treated as interest for the purpose of taxability in India

CASE LAW 4: BDR Finvest Pvt. Ltd. v. DCIT [2024] (Delhi)

Facts of the case (Question): The assessee received interest income from "Ninex" (Deductor). In the return of income filed for the relevant year, assessee offered the entire interest income and claimed the credit for tax deducted at source (TDS) by the said deductor. TDS credit was not allowed by the department, pursuant to intimation issued u/s 143(1) and application filed u/s 154 was also rejected for the reason that TDS credit is not reflected in Form 26AS and consequently, the said tax was recovered from the assessee itself.

Issue Involved: Is the deductee entitled to claim credit for TDS if the amount of TDS is not reflected in Form 26AS because the deductor has not deposited it with the Government?

Sol.:Relevant provision of law

1.As per sec 199(1), any amount of tax deducted at source and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made.

2.Sec 205 provides that where tax is deductible at the source, the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income. In simple words, amount of TDS already deducted from income cannot be recovered from deductee.

3.The TDS is part of the assessee's income and therefore, the gross amount is included in the total income and offered to tax.

4. **Analysis/Conclusion/Decision:**

The High Court held that sec 199 cannot come in the way of the deductee in case deductor failed to deposit the TDS.

Therefore, the deductee should be given credit for TDS though it was not reflected in form 26AS and no recovery towards TDS could be made from the assessee in terms of the provisions of sec 205.

The assessee (deductee) had followed the regime through an agent (deductor) of the Government. The recovery proceedings could only be initiated against the deductor only because the deductor, an agent for collecting tax had failed to deposit the tax with the Government.

CASE LAW 5: Bharti Cellular Ltd. vs. ACIT [2024] (SC)

Facts of the case (Question): The Apex Court held that the contractual obligations of the franchises or distributors (SIM CARD Vendors) did not reflect a fiduciary character of the relationship, or the business being done on the Principal's account.

Issue Involved: Are cellular mobile telephone service providers required to deduct TDS u/s 194H on the difference (on the discount provided by them on MRP of starter kits and recharge vouchers)

between the discounted price at which it sold starter kits and recharge vouchers to franchisees or distributors and the sale price at which these products were subsequently sold by the franchisees or distributors?

Sol.: Relevant provision of law:

1. As per sec 194H, any person, who is responsible for paying to a resident, any income by way of Commission or brokerage, then TDS would be deducted at 5% (2% from 1/10/2024) on credit of income or payment, WI earlier.

2.TDS u/s 194H is deducted when there is principal-agent relationship exists. Distributor & agents are different. Distributor buy goods on his own account & sells in his own territory.

Profit of Distributor = Sale price – Purchase Price

3.In the given case, it is principal-principal relationship. Distributor therefore is not an agent in the given case. Distributor is not earning any commission. TDS u/s 194H will not be applicable.

Hence, sec 194H is not applicable to the facts and circumstances of this case and the assessee would not be under a legal obligation to deduct tax at source on the income/profit component in the payments received by the distributors/ franchisees from the third parties/customers, or while selling/transferring the pre-paid coupons or starter-kits to the distributors.

4. **Analysis/Conclusion/Decision:**

The Supreme Court ruled that since telecom distributors were not acting as agents but as independent businesses purchasing vouchers on their own, the discount was not a commission, and Section 194H did not apply.

CASE LAW 6: Duraiswamy Kumaraswamy v. PCIT [2024] (Madras)

Issue Involved: Can the claim for the foreign tax credit be accepted, if a taxpayer inadvertently fails to file Form 67 along with return of income though such form is filed before receipt of intimation u/s 143(1) ?

Sol.: Relevant provision of law:

1.As per Rule 128(8), credit of any foreign tax is allowed on furnishing statement of income from the country or specified territory outside India offered for tax for PY & of foreign tax deducted or paid on such income in Form No. 67

2.Erstwhile Rule 128(9) (Old Rule) provides that the statement in Form No. 67 is required to be furnished on or before ROI DD u/s 139(1)

3.Rule 128(9) was amended w.e.f. 1.4.2022 to provide that the statement in Form No. 67 is required to be furnished on or before end of AY relevant to PY in which the income has been offered to tax or assessed to tax in India & ROI furnished within time specified u/s 139(1) or 139(4).

4. **Analysis/Conclusion/Decision:**

High Court held that the return was filed without Form 67, however the same was filed before intimation under section 143(1) was issued.

Filing of Form 67 for foreign tax credit in terms of Rule 128 is only directory in nature. Therefore, in the present case, the claim of foreign tax credit cannot be denied.

CASE LAW 7: Godaddy.Com LLC vs ACIT (2023) (Delhi)

Issue Involved: Whether fees received by a foreign company (say Godaddy.com) as consideration towards domain providing name registration services amounts to 'royalty' u/s 9(1)(vi) ?

Sol.: Relevant provision of law:

1. The NR assessee (Godaddy.com) who does not have a PE in India or fixed establishment in India, in such a case, the income would not be taxable in India.

Equalisation levy at 6% would be attracted on specified services where aggregate consideration for specified serives is >1 lacs in PY & payment would be made for business purpose.

2. In the given case, Godaddy is not the owner of the domain. Owner is registrar (ICAAN : Internet Corporation for Assigned Names & Numbers).

3. Godaddy only Facilitates the registration of domain name with the registrar.

Also, Registration of domain name does not create any proprietorship rights in the name used for the Assessee

4. **Analysis/Conclusion/Decision:**

The High Court held that the fee received by the NR assessee for registration of domain names to its customers, cannot be treated as royalty.

Case Law 8: CIT v. Rekha Korani (2024) (HC)

Issue Involved: Whether interest earned on debentures transferred without consideration is clubbed under section 64(1)(iv).

Sol.: Relevant provision of law:

1.Sec 61 of Clubbing of income deals with income arising from transfer of asset.

2.In case of revocable transfer, income clubbed & taxable in the hands (herein referred to ITH) of transferor.

3.In case of irrevocable transfer, income would not be clubbed ITH of transferor & taxable ITH of transferee.

4.**Analysis/Conclusion/Decision:**Held: The HC ruled that such interest is clubbed with the transferor's income, but interest earned from reinvested funds is taxed separately.