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% 19.07.2011

Present: Mr. Sanjeev Sabharwal, Advocate for the Appellant.
Mr. M S Syali, Sr. Advocate with Ms. Madhavi Swaroop,
Advocate for the respondent.

+ **ITA No.83/2010**

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In the assessment year 1998-99, the Assessing Officer has made disallowance of Rs.87,23,257/- on account of Non-Performing Assets (NPA) which was otherwise shown as interest income in the earlier years and offered for tax. The reason for doing so was that it had followed the RBI prudential norms inasmuch as the loans which were advanced had become sick and therefore interest could not have been charged. That was the reason interest was charged in the earlier years. The assessee wanted to reverse the same in the year in question. The Assessing Officer disallowed the same. Report filed by the assessee was dismissed by the ITAT holding that in a situation like this, the provision of Section 36(1)(vii) Income Tax Act would not be applicable as interest charged could not be reversed. The assessee had taken an alternate leave before the CIT(A) that in any case it was open and permissible for the assessee to write off the said interest income which had not actually been received as bad debt, and in that eventuality as well, the assessee was entitled to deduction under Section 36(1)(vii) read with Section 36(2) of the Act. This argument was not accepted by the CIT(A). However, in further appeal preferred by the appellant, on this alternate ^{plea} ~~leave~~ taken by the assessee the



Tribunal has restored back the matter to the ^{As} ~~assessee~~ to consider afresh actual written off interest for earlier years for the year under consideration.

We do not find any wrong with the aforesaid approach of the Tribunal. Even when the assessee is following the mercantile system of accounting and interest is not received in the earlier year but when it is found that the interest income is unrevisable and assessee writes it off to the deduction thereof as bad debt, we thus find that no question of law arises.

Dismissed.


A.K. SIKRI, J.


M.L. MEHTA, J.

JULY 19, 2011

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