

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3976 OF 2003

COMMNR. OF INCOME TAX

Appellant (s)

VERSUS

M/S. INSILCO LTD.

Respondent(s)

(With office report)

Date: 09/08/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant(s) Mr. Rajiv Dutta, Sr. Adv.

Mr. Anuvrat Sharma, Adv.

Mr. B.V. Balaram Das, Adv.

For Respondent(s) Mr. S. Ganesh, Sr. Adv.

Mr. V.P. Gupta, Adv.

Mr. Jagdish Kumar Chawla, Adv.

Mr. Bansant Kumar, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed in terms of the signed order and the matter is

remanded back to the High Court after admitting the appeal for assessment year 1991-

92.

Sushma

(Madhu Saxena)

Court Master

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3976 OF 2003

COMMR. OF INCOME TAX

.. Appellant

vs.

M/S. INSILCO LTD.

.. Respondents

O R D E R

The grievance of the appellant is that the High Court, while

admitting the appeal in respect of two assessment years under Section

261A of the Income Tax Act, 1961, directed that only the appeal relating

to the assessment year 1990-1991 would be admitted. As far as the second

assessment year 1991-1992 was concerned, the High Court was of the view

that the issue had been correctly decided in favour of the assessee by the Tribunal relying upon the decisions of the Patna High Court in Ranchi Club Ltd. vs. Commissioner of Income Tax, (1996) 217 ITR 72 and Uday Mistanna Bhandar & Complex vs. Commissioner of Income Tax (1996) 222 ITR 44 as affirmed by this Court in Commissioner of Income Tax & Ors. vs. Ranchi Club Ltd. (2001) 247 ITR 209.

-2-

The appellant has said that the Ranchi Club case was not an authority for the proposition as determined by the High Court and it erred in not admitting the appeal for the assessment year 1991-92. It is said that the decision of the High Court in Ranchi Club did not lay down that interest could not be charged unless the assessment order mentioned the specific section as held by the Tribunal. Therefore, what was affirmed by this Court was not the requirement to charge interest under a specific section. We are unable to uphold this submission, having regard to the clear language of the decision of the Patna High Court. It was without question affirmed by this Court.

The second ground on which the appellant has contended that the appeal should not have been admitted is that the law laid down in the Ranchi Club case had been changed by virtue of the decision of the Constitution Bench in Commissioner of Income Tax vs. Anjum M.H.

Ghaswala & Ors. (2001) 252 ITR 1. Learned counsel appearing for the

respondent on the other hand

-3-

has urged that the decision of the Constitution Bench did not at all affect the earlier affirmation of the Ranchi Club case by this Court. In our opinion the dispute raises a question of law which requires consideration.

The appeal is allowed on this short ground and the matter remanded back to the High Court after admitting the appeal for assessment year 1991-92.

.....J

(RUMA PAL)

.....J.

(Dr. AR.LAKSHMANAN)

New Delhi,

AUGUST 9, 2005.