

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).6998 OF 2016
(Arising out of SLP(C) No.27844 of 2012)

DEPUTY DIRECTOR OF INCOME TAX & ORS. ...APPELLANT(S)

VERSUS

SUMITOMO MITSUI BANKING CORPORATION ...RESPONDENT(S)

O R D E R

1. Delay condoned.
2. Leave granted.
3. The revenue challenges the order of the High Court dated 22.02.2011 passed in Writ Petition (LOD) No.140 of 2011 by which the reopening of the assessment of the respondent-assessee (Sumitomo Mitsui Banking Corporation) sought to be made by issuing a notice under Section 148 of the Income Tax Act, 1961 has been interfered with.
4. We have gone through the order passed by the High Court. We have also perused the reasons recorded for the reopening of the assessment of the respondent-assessee.

5. Having regard to the fact that though the assessee has disclosed that the bad debts were transferred to Kotak Mahindra Bank Ltd. for realization, the authority recording the reasons prior to issuance of notice under Section 148 of the Income Tax Act, 1961 has specifically recorded that there was no material available on record to indicate that the bad debts have been written off as mandatorily required under Section 36(1)(vii) of the Income Tax Act, 1961 as amended with effect from 01.04.1989. If that be so, we find no fault with the notice issued. Consequently, we allow this appeal by setting aside the order of the High Court and dismissing the writ petition filed by the respondent-assessee challenging the said notice.

6. We, however, make it clear that we have expressed no opinion on the merits of the reassessment, which has been made on 24.12.2010 and it will be open for the respondent-assessee to urge all questions as

may be open, in law, in the event the assessee seeks to challenge the reassessment order dated 24.12.2010.

.....,J.
(RANJAN GOGOI)

.....,J.
(PRAFULLA C. PANT)

NEW DELHI
JULY 26, 2016

ITEM NO.5

COURT NO.6

SECTION IIIA

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

Petition(s) for Special Leave to Appeal (C) No(s). 27844/2012

(Arising out of impugned final judgment and order dated 22/02/2011
in WP No. 140/2011 passed by the High Court Of Bombay)

DY.DIR.OF I.T. & ORS.

Petitioner(s)

VERSUS

SUMITOMO MITSUI BANKING CORP.

Respondent(s)

(With appln.(s) for c/delay in filing and refiling SLP)

Date : 26/07/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. K. Radhakrishnan, Sr. Adv.
Mr. Rupesh Kumar, Adv.
Ms. Gargi Khanna, Adv.
Mr. Amarjeet, Adv.
For Mrs. Anil Katiyar, Adv.

For Respondent(s) Mr. Niraj Sheth, Adv.
Mr. Rustom B. Hathikhanawala, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed
order.

(Neetu Khajuria)
Court Master

(Asha Soni)
Court Master

(Signed order is placed on the file.)