

SUPREME COURT OF INDIA

Standard Chartered Bank

Vs.

Asst. Commr. of Income Tax, Bombay

C.A.No.2672 of 2009

(Tarun Chatterjee and R.M.Lodha JJ.)

25.08.2009

ORDER

Tarun Chatterjee, J.

1. Standard Chartered Bank (hereinafter called as the 'Bank') has filed C.A. No. 2672 of 2009 against an interim order dated 3rd of April, 2009 of the Special Court at Mumbai constituted under the provisions of the (Trial of Offences relating to Transaction in Securities) Act, 1992 (in short, the Act) in so far as the Special Court, instead of embarking on distribution of the moneys of the appellant which had been diverted to the accounts of the broker Harshad Shantilal Mehta (HSM), has held that it will not be fair to decide the matter of distribution without waiting for the decision of the CIT (Appeals) of the liability of HSM to Income-tax for the statutory period from 1.4.1991 to 6.6.1992. Several Interlocutory Applications (shown hereinbefore) have been filed in the appeals, which had been disposed of by this Court on 3rd of December, 2008.

2. We have heard the learned counsel for the parties and considered the Interlocutory Applications filed in those disposed of appeals and the order passed by us in the earlier litigation. In our view, the Special Court, Mumbai was justified in not permitting the appellant-Bank to get the amount lying with the custodian before the final adjudication now pending before the CIT (A), Central V, Mumbai is made. It is an admitted position that CIT (Appeals) Central V, Mumbai has already heard out the Income Tax Appeal excepting that an application has been filed before it by the heirs and legal representatives of the HSM for setting aside the decree passed in favour of the Bank.

3. Ms.Kamini Jaiswal, learned counsel appearing on behalf of the heirs and legal representatives before us submitted on instruction that they will file their documents and argue the case on their behalf and conclude their arguments within four months from this date positively without asking for any adjournment on any ground whatsoever.

4. Such being the stand taken by the heirs and legal representatives of HSM, we do not find any reason to pass any order on the aforesaid Interlocutory Applications by which the Bank

has sought permission to withdraw the decretal amount from the custodian concerned. In view of the above, we are, therefore, of the view that these Interlocutory applications are liable to be dismissed and are accordingly, dismissed.

5. During the argument, we are informed that Mr.Kuntal K. Sen, CIT (A), Central V, Mumbai, who has already heard out the appeal, is under transfer. Since we find that he has heard out the matter in detail and only the matter is to be decided finally after hearing the heirs and legal representatives of the HSM, we feel it proper that Mr.Kuntal K.Sen should be allowed to stay for a period of six months from this date to hear out the Income Tax Appeal and dispose of the same finally. The learned Additional Solicitor General of India, Mr.Tripathi, appearing on behalf of the Income Tax Authorities as well as Ms.Kamini Jaiswal jointly submitted before us that directions could be made to dispose of the Income Tax Appeal within four months from this date without granting any adjournment on any ground whatsoever. Accordingly, we direct the CIT (A), Central V, Mumbai to dispose of the Income Tax Appeal pending before it within six months from this date without granting any unnecessary adjournment whatsoever.

6. Such being the position, we feel it proper to direct the authorities not to dislodge Mr. Kuntal K. Sen, CIT (A), Central V, Mumbai without the final decision is made by him as we are of the view that if a new incumbent takes over from Mr. Sen, then a denovo trial has to be made, which would take a long time to dispose of the pending appeal.

7. With the aforesaid directions, pending C.A.No. 2672 of 2009, all the aforesaid Interlocutory Applications seeking clarifications, modifications and directions are disposed of. There will be no order as to costs.