

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). 919/2020

(Arising out of impugned final judgment and order dated 27-03-2019 in WPST No. 19262/2018 passed by the High Court Of Judicature At Bombay)

COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION) 3 MUMBAI & ORS.Petitioner(s)

VERSUS

KINGFISHER CAPITAL CLO LTD.

Respondent(s)

WITH

SLP(C) No. 9989/2021 (IV-A)
(FOR ADMISSION and I.R.)

Date : 28-07-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) Mr. K M Natraj, A.S.G.
Mr. Raj Bahadur Yadav, AOR
Mr. Shashank Bajpai, Adv.
Mr. Nalin Kohli, Adv.
Mr. Rupesh Kumar, Adv.
Mr. Sansriti Pathak, Adv.
Mr. Tejas Patel, Adv.
Mrs. Alka Agarawal, Adv.

For Respondent(s) Mr. T. Suryanarayana, Sr. Adv.
Mr. Kunal Verma, AOR
Ms. Yugandhara Pawar Jha, Adv.
Ms. Manasa Ananthan, Adv.
Ms. Tanmayee Rajkumar, Adv.
Ms. Lavanya Dhawan, Adv.
Mr. Ritik Gupta, Adv.

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

The issue which the revenue seeks to urge is with respect to the interpretation of Section 47 (xa) which was introduced through

an amendment from the Finance Act, 2008 with effect from 01.10.2008. It is urged that a combined reading of that provision with Section 115AC ought to have led to a correct conclusion that that the date of acquisition of the bonds by the assessee was the determinative time for its valuation and not the date of acquisition of the underlying shares.

Having considered the submission as well as the judgment of the Punjab and Haryana High Court (which seems to have been rendered in the context of situation existing prior to introduction of Section 47 (xa)) as well as the provisions of the concerned scheme i.e. Foreign Currency Exchangeable Bond Scheme, 2008 dated 10.08.2008 {introduced prior to the insertion of Section 47 (xa)} this Court is of the opinion that the bonds in question did not answer the description of the 2008 Scheme, but rather were in conformity with the earlier scheme relating to the issue of Foreign Exchange Convertible Bonds (a scheme introduced in 1993). The distinction between the two schemes is that one relates to issuance of Exchange Convertible Bonds, whereas the other relates to Foreign Currency Exchangeable Bonds.

Having regard to the significance to this distinction, this Court is of the opinion that there is no infirmity with the reasoning of the Bombay High Court.

The special leave petitions are accordingly dismissed.

Pending applications, if any, are disposed of.

(HARSHITA UPPAL)
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)
COURT MASTER (NSH)