

Interest earned on FD maintained with Bank for availing Credit Facility couldn't be treated as Business Income, not entitled to Deduction

Fact of the Case

- In the present case Brahma centre development pvt. Ltd. is the assessee. The assessee earned interest on fixed deposit maintained with the Bank for availing credit facility for business purpose. The question is whether the interest earned is entitled to deduction or not.
- The PCIT noted that the tax auditor, in the report filed in Form 3CD, had observed that interest earned on fixed deposits pertained to "other income" and had not been credited to the P&L account.
- Advocate Vibhooti Malhotra on behalf of the appellant revenue urged that the Tribunal failed to appreciate the judgements in which Courts have held that, interest earned from fixed deposits, inter alia, kept as margin money or security for a bank guarantee to avail credit facility for export business, had to be treated as income from other sources and not business income since it did not have any nexus with business.
- On the other hand, Ms. Jha on behalf of the assessee contended that Clause (a) and (b) of Explanation 2 appended to Section 263 of the Act could not have been invoked by the PCIT to interfere with the assessment orders, as said provisions did not have retrospective effect.

Decision of the Case

- The division bench of Justice Rajiv Shakti and Justice Talwant Singh opined that since the Tribunal has returned a finding of fact that there was indeed an enquiry carried out by the so as to the nexus between the funds invested in fixed deposits (on which interest was earned) and the real estate project undertaken by the assessee, no interference is called for by the Court.
- The Delhi High Court ruled that the interest earned on Fixed Deposits maintained with a bank for availing credit facility could not be treated as business income and is not entitled to deduction.