IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 61 OF 2007

The Commissioner of Income Tax,
Having Office at Aaykar Bhavan,
Patto Plaza,
Panaji-Goa-403001. …... Appellant

V e r s u s

V. S. Dempo & Co. Pvt. Ltd.,
Dempo House,
Campal, Panaji, Goa. …... Respondent.

Ms. Asha A. Desai, Advocate for the Appellant.

Mr. Mihir Naniwadekar with Ms. Vinita Palyekar, Advocates for the Respondent.

CORAM: F. M. REIS, &
M. S. SANKLECHA, JJ
DATE: 29th APRIL, 2015.

ORAL JUDGMENT: (Per F. M. Reis, J.)

Heard Ms. Asha Desai, learned counsel appearing for the appellant and Mr. Mihir Naniwadekar, learned counsel appearing for the respondent.

2. The above appeal came to be admitted along with Tax Appeals No.58, 59, 60, and 62/2007 and numerous common substantial questions of law were accordingly framed. However, during the course of hearing of this appeal both the learned counsel submit that the only substantial question of law which arises for consideration in this appeal is substantial question no. (I) as shown in the order dated 12/10/2007, which reads thus:

> (I) Whether in the facts and in the circumstances of the case, the ITAT has erred while referring the issue to the file of A.O., to exclude 90% of "net" interest income excess of interest received or paid provided there is direct nexus between interest earned and paid after establishing the fact that all the interest income except the interest on income tax is forming part of the profits of the business and not income from other sources?

3. Both the learned counsel are agreed and jointly submit that the issue raised in this appeal stands covered by the Judgment of the Apex Court in the case of "*ACG Associated Capsules Pvt. Ltd. Vs.*

CIT", reported in (2012) 343 ITR (SC) 89, in favour of the respondent -Assessee.

4. Accordingly, the substantial question of law is answered in the negative i.e in favour of the assessee and against the revenue.

5. The appeal stands accordingly dismissed.

M. S. SANKLECHA, J. F. M. REIS, J.

Ap/-