IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 415 OF 2013

The Commissioner of Income Tax- ..Appellant

Vs.

M/s Tolani Shipping Co. Ltd. ..Respondent

....

Ms. S.V. Bharucha, Advocate for Appellant.
Mr. Niterh Joshi, Advocate i/b Mr. Atul Jasani for Respondent.

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CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.
DATED : 03 MARCH 2015

P.C.:

1. This appeal by Revenue challenges the order dated 8 August 2012 passed by the Income Tax Appellate Tribunal (the 'Tribunal') in respect of Assessment Year 2002-03.

2. The Revenue has formulated the following question of law for our consideration:

> *"Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified in coming to the conclusion that no interference is required on the order passed by the CIT(A) wherein CIT(A) erred in treating the interest income of Rs.2,16,64,567/- assessed by the*

Assessing Officer under the head "Income from Other Sources" mainly as "Business Income" amounting to Rs.1,37,13,291/- and remaining as "Income from Other Sources" without establishing direct nexus with that of the assessee's business?"

3. The basic issue involved in this appeal whether the interest income amount aggregating to Rs.1.37 Crores earned by the respondent-assessee on account of following:

(a) Interest from Tolani Bulk Carriers Ltd., a subsidiary company of the Appellant Company -	Rs.1,19,89,493/-
(b) Interest on Bonds purchased to fulfill the provisions of Companies Act with respect to Deposits accepted by the Appellant Company -	Rs. 14,83,070/-
(c) Interest on loans advanced to staff members –	Rs. 1,53,770/-
(d) Interest received from customers for delay in payment against freight amount receivable –	Rs. 86,958/-

4. The Assessing Officer was of the view that the interest received on the above account was income received from other sources and was not income from business. In appeal the CIT(A) on examination of the transactions recorded a finding of fact that the amount of Rs.1.19 Crores receives interest from M/s Tolani Bulk Carriers Ltd. was an

amount advanced to a subsidiary company which was engaged in the business of shipping and the respondent-assessee regularly took ships on hire from its subsidiary company and therefore the interest income earned was a part of its business. Similarly, with regard to the interest earned on bonds, loans advanced to staff and on delayed payment of freight were all held by the CIT(A) to be arising out of appellant's business and therefore were classified as business income. On further appeal, the Tribunal upheld the findings of the CIT(A) on the above account.

5. The grievance of the revenue is that the interest income aggregating to Rs.1.37 Crores is not business income. In support, reliance was placed upon the order of the Assessing Officer.

6. We find that the CIT(A) as well as the Tribunal have on examination of the nature of transaction reached a finding of fact that the interest income earned to the extent of Rs.1.37 Crores as listed out hereinabove arise in the course of carrying out its business and is therefore chargeable to tax under the head Profits and Gains of Business. We find that the CIT(A) and the Tribunal have rendered concurrent findings of fact and nothing has been shown by the revenue to warrant

interfere by this Court. This is particularly so as revenue is not able to show that the finding of fact arrived at in the impugned order is in any manner perverse and/or arbitrary. The view of the CIT(A) and the Tribunal is a reasonable and a possible view. Therefore, no substantial question of law arises for our consideration on the question formulated.

7. Appeal dismissed. No order as to costs.

[G.S. KULKARNI, J] **[M.S. SANKLECHA, J.]**