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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.222 OF 1999

Tata Exports Ltd. ..Applicant
Versus
The Commissioner of Income Tax
Bombay City-I, Bombay. ..Respondent

....

Mr. Firoz Andhyarujina, Senior Counsel, a/w Sameer Dalal for the applicant.
Mr. Suresh Kumar a/w Ms. Samiksha Kanani for the respondent.

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CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 10th AUGUST, 2016

P.C.:

By this Reference under Section 256(1) of the Income Tax Act, 1961 (the Act) the Income Tax Appellate Tribunal (Tribunal) seeks our opinion on the following two questions of law:-

"(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the weighted deduction under Section 35B is allowable on interest on export packing credits?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was correct or justified in law in holding that no weighted deduction under Section 35B could be allowed in respect of the expenditure incurred by the assessee by way of interest on medium-term export post-shipment credits?"

2. **Regarding Question no.(i):-**

(a) This question has been formulated for our opinion at the instance of the Respondent-Revenue. It is an agreed position between the parties that the issue raised herein stands concluded by the decision of this Court in case of KEC International Ltd. v/s. CIT 322 ITR 465 in favour of the Respondent-Revenue and against the Applicant-Assessee.

(b) Accordingly, question no.(i) is answered in the affirmative i.e. in favour of the Respondent-Revenue and against the Applicant-Assessee.

3. **Regarding Question no.(ii):-**

(a) Mr. Andhyarujina, the Senior Counsel appearing for the Applicant-Assessee in support of the question raised at its instance states, on instructions, that the Applicant-Assessee is not interested in pursuing this question.

(b) In view of the above, question no.(ii) is return unanswered. However, it is made clear that the question raised herein is left open for consideration in an appropriate case, if not already decided.

4. Reference is disposed of in above terms. No order as to costs.

(A. K. MENON, J.) **(M. S. SANKLECHA, J.)**

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