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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2507 OF 2013

Commissioner of Income Tax-4 ..Appellant
Versus
M/s. Taurian Iron & Steel Co.Pvt.Ltd. ..Respondent

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Mr. A. R. Malhotra a/w N.A.Kazi for the Appellant.
Mr. Atul Jasani for the Respondent.

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

DATE : 7TH JUNE, 2016

P.C.:

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 6th March, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2007-08.

2. Mr. A. R. Malhotra, the learned counsel for the Revenue urges the following questions of law for our consideration :-

> *"(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the addition of Rs.69,70,175/- made by the A.O. Under section 36(1)(iii) on*

account of interest disallowed when interest free advances and loans were also given to directors and sister concerns which are for non business purposes?

(ii) Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the addition made by the A.O. under Section 36(1)(iii) even though the Assessee has given loans and advances to its directors and sister concerns as interest free advances whereas the Assessee itself is having interest bearing loans?

(iii) Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the addition made by the A.O. under Section 36(1)(iii) on account of interest disallowed even though in the case of K. Somasundaram & Brothers vs. CIT (1999) 238 ITR 939, it was held that when 'income earned by utilizing the borrowers is 'diverted' for non business purposes, deduction is allowable … where the assessee paid interest on borrowers for business, later on out of business receipts the assessee advanced interest free loans to relatives, interest relatable to sums so advanced is not deductible?"

3. We find that the impugned order of the Tribunal has relied upon the order passed by its Co-ordinate bench in respect of the same assessee for the A.Y. 2006-07. The aforesaid order of the Tribunal in turn relied upon the decision of this Court in ***CIT vs. Reliance Utilities reported in 313 ITR 340.***

4. We are informed by the learned counsel for the Revenue that it has not preferred any appeal against the order of the Tribunal for the A.Y. 2006-07 passed in respect of the same respondent-assessee. This was in view of the fact that the issue is covered by the decision of the jurisdictional High Court in the case of Reliance Utilities (supra). Further no distinguishing features in the subject assessment year have been pointed out which would warrant taking a view different from that taken by the Tribunal for the A.Y. 2006-07. In the aforesaid circumstances, the questions as proposed do not give rise to any substantial question of law. Thus, not entertained.

5. Appeal is dismissed. No order as to costs.

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

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