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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX APPEAL NO. 1748 OF 2014**

Director of Income Tax- I ..Appellant

*Versus*

M/s. Caylon Bank ..Respondent

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Mr. Tejveer Singh for the Appellant.

Mr. Madhur Agrawal i/b. Mr. Atul Jasani for Respondents.

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

**DATE : 23rd MARCH, 2017**

P. C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 21st March, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The common impugned order is in respect of Assessment years 2002-03 and 2003-04. The present appeal is concerned with Assessment Year 2003-04.

2. This Revenue urges the following question of law for our consideration :-

*(1) Whether on the facts and circumstances of the case and in law, the Tribunal has erred in holding that the provisions of Section 40(a)(ia) of the Act was not applicable in this case even though the assessee has*

*failed to withhold tax u/s 195 of the Act on the interest payment made to HQ/Overseas branches ?*

*(2) Whether on the facts and circumstances of the case and in law, the Tribunal has erred in working out the disallowance without any basis without appreciating the fact that working of disallowance ought to have been carried out in accordance with Rule 8D of Income Tax Rules, 1962 ?*

*(3) Whether on the facts and circumstances of the case and in law, the Tribunal has erred in holding that no interest income earned on the loan by AE can be taken into account, instead of 25% of interest income adopted by TPO, for calculation of the ALP margin while benchmarking the services performed by the assessee for this AE.*

3. Mr. Tejveer Singh, learned Counsel appearing for the Revenue very fairly states that all the three questions raised herein were urged by the Revenue in Income Tax Appeal No. 1781 of 2014 as question nos. 1, 2 and 4 arising from the impugned order of the Tribunal to the extent it related to Assessment year 2002-03.

4. We have today by a separate order dismissed the revenue's appeal in respect of three questions raised herein as also raised question no. 1, 2 and 4 in

Income Tax Appeal No. 1781 of 2014 arising from the common impugned order for the reasons indicated in our order passed today in Income Tax Appeal No. 1781 of 2014. All the three questions proposed by the Revenue in this appeal 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.)**