HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
&
HON'BLE SRI JUSTICE T. AMARNATH GOUD

I.T.T.A.No.242 of 2005

Date : 29-11-2017

ITTA No.242 of 2005

Between :

The Commissioner of Income Tax,
Guntur .. Appellant

And

M/s.Deccan Tobacco Enterprises,
Guntur .. Respondent

Counsel for appellant : Smt. M. Kiranmayee
Senior Standing Counsel for Income Tax Department
Counsel for respondent : Sri Y. Ratnakar

The Court made the following :

ORDER:

(*per* Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This appeal by Revenue raises the following questions of law:

1. Whether net interest and net rental income or total interest and rental income received by the assessee is to be taken while computing profit of business of the assessee in terms of Explanation (1)(baa) of Section 80HHC of Income Tax Act ?
2. Whether the finding of the Tribunal that only net interest and rental income if any is to be excluded in terms of Clause (baa) of Explanation to Section 80HHC of Income Tax Act, is sustainable in law ?

At the hearing, Smt. M. Kiranmayee, learned Senior Standing Counsel for the Income Tax Department, fairly submitted that the above mentioned substantial questions of law are no longer *res integra* in view of the Judgment of the Supreme Court in **ACG Associated Capsules Pvt. Ltd. (Formerly Associated Capsules Pvt. Ltd) Vs. Commissioner of Income Tax, Central-IV, Mumbai**[1] wherein it was held that for the purpose of deduction under Section 80-HHC of the Income Tax Act 1961, 90% of net interest which was includible in profits of business of assessee is to be deducted for determining the profits of business.

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[1] (2012) 3 SCC 321

In the light of the above Judgment, the questions of law are answered against the Revenue.

The appeal is accordingly dismissed.

Justice C.V. Nagarjuna Reddy

Justice T. Amarnath Goud

Date : 29-11-2017

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