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

I.T.T.A.No.299, 306 & 318 of 2005

Date : 29-11-2017

ITTA No.299 of 2005

Between :

The Commissioner of Income Tax-III,
Hyderabad .. Appellant

And

M/s. Andhra Pradesh Paper Mills,
Secunderabad .. Respondent

Counsel for appellant : Sri B. Narasimha Sarma,
Senior Standing Counsel for Income Tax Department

Counsel for respondent : Sri Challa Gunaranjan

The Court made the following :

COMMON ORDER:

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

These appeals by Revenue raise common questions of law which are as under :

1. Whether 90% of the interest received by the Assessee should be considered for exclusion from the "profit of business" or net interest alone should form part of "profit of business" for the purpose of Clause (baa) of Explanation to Section 80-HCC ?
2. Whether the finding of the Tribunal without considering the said relevant statutory provision and by allowing the appeal of the assessee as covered case is sustainable in law ?

At the hearing, Sri B. Narasimha Sarma, 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 appeals are accordingly dismissed.

Justice C.V. Nagarjuna Reddy

Justice T. Amarnath Goud

Date : 29-11-2017

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