THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

I.T.T.A. Nos.10, 127 and 130 of 2005

12.12.2017

Between:

Siemens AG., Federal Republic of Germany,
represented by Rashtriya Ispat Nigam Ltd.,
Visakhapatnam

..Appellant

And

The Deputy Commissioner of Income tax,
Circle-1, Visakhapatnam

..Respondent

Counsel for the appellant: Mr.A.V.Krishna Kaundinya, senior counsel

Counsel for the respondent: Mr.K.Raji Reddy,
standing counsel for the Income Tax Department

The Court made the following:

<u>COMMON JUDGMENT</u>: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

These appeals filed by the assessee pertain to the assessment years 1990-91, 1991-92 and 1992-93 respectively.

2. The following substantial question of law, which is common in all these appeals, has been raised in these appeals.

> "Whether on the facts and circumstances of the cases, the Tribunal is correct in law in holding that interest under Section 234B of the Income Tax Act, 1961 is mandatory and has to be levied even in cases where the assessee is not liable to pay any sum as advance tax?"

3. In the note circulated by Mr.A.V.Krishna Kaundinya, learned senior counsel appearing for the appellant-assessee, it is stated that the assessee filed M.P.Nos.47, 48 and 49/V/2004 before the Income Tax Appellate Tribunal, Visakhapatnam (for short 'the Tribunal') for rectification of orders, dated 14.10.2004, in I.T.A.Nos.186, 187 and 188/V/1999 with regard to the mistake occurred in levying interest. During the hearing, the learned senior counsel has placed before us, common order, dated 24.02.2005, passed by the Tribunal in the aforementioned M.Ps. rectifying its earlier orders to the extent of ground Nos.6 to 8 in I.T.A.No.186/V/1999, ground Nos.6 and 7 in I.T.A.No.187/V/1999 and ground Nos.4 and 5 in I.T.A.No.188/V/1999 and allowing the M.Ps. filed by the assessee. The learned senior counsel has submitted that in the light of the aforementioned order in M.P.Nos.47, 48 and 49/V/2004 passed by the Tribunal, the cause in these appeals does not survive for adjudication.

4. Therefore, these Appeals are disposed of as infructuous.

5. As a sequel to disposal of these Appeals, miscellaneous petitions, if any, pending for consideration in these Appeals stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

T.AMARNATH GOUD, J

12th December, 2017
GHN