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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **ITA No. 511/2017**

PR. COMMISSIONER OF INCOME TAX-6,
NEW DELHI ..... Appellant

Through: Mr. Asheesh Jain, Senior Standing Counsel.

versus

NTPC ELECTRIC SUPPLY COMPANY LTD. ..... Respondent

Through: Mr. Ved Jain, Mrs. Rano Jain and Mr. Pranjal Srivastava, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% **22.08.2017**

1. This is an appeal under Section 260A of the Income Tax Act, 1961 ('Act') by the Revenue directed against the order dated 11th January 2017 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.240/Del/2013 for the Assessment Year ('AY') 2009-10.

2. The question of law urged by the Revenue is whether the ITAT erred in law in holding that taxability of interest income of ₹19,87,59,407/- will depend upon subsequent use of the interest income?

3. The undisputed fact, as noted by the ITAT, is that the said interest income was earned by the Assessee on the deposit of advances received from REC Ltd. for Rajiv Gandhi Gramin Vidyutikaran Yojana ('RGGVY'). A

Memorandum of Understanding ('MOU') was signed on 16th August 2004 between REC and the Assessee whereby *inter alia* it was agreed that interest earned on the deposits would be used as part of the cost of the projects and no other purpose.

4. In the circumstances, the view taken by the CIT (A) and affirmed by the ITAT, does not suffer from legal infirmity so as to give rise to any substantial question of law.

5. The appeal is dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

AUGUST 22, 2017
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