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

\+ ITA 570/2018

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

Through: Mr. Asheesh Jain, Sr. Standing Counsel for Revenue with Mr. Shahrukh Ejaz, Adv.

versus

NTPC SAIL POWER CO. PVT.LTD ..... Respondent

Through: Mr. K.N. Ahuja, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% 15.05.2018

The two questions urged by the Revenue in its appeal under Section 260A of the Income Tax Act, 1961 (hereafter referred to as 'the Act') are – firstly, the interest income earned by the assessee towards the surplus funds lying with it; and, secondly, the disallowance made on the provision for retirement benefits.

The AO had, in both cases, brought two amounts to tax – on the one hand, determining that the amounts derived constituted income from other sources, on the other, that such expenses could not be allowed under Section 37 of the Act.

Both issues are covered by decisions of this Court with respect to the question of treatment of the amounts derived as to whether they

are business income or income from other source. The judgment in *NTPC SAIL Power Co. Pvt. Ltd. v. Commissioner of Income Tax* 210 Taxmann 358 (Del.) is conclusive and averse to the Revenue. The judgment in *Commissioner of Income Tax v. Insilco Ltd.* 197 Taxman 55 (Del.) has ruled against the assessee that such amounts are deductible under Section 37 of the Act.

No substantial question of law arises. The appeal is consequently dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 15, 2018
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