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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX APPEAL NO.61 OF 2025**

Pr. Commissioner of Income Tax – 4 ...Appellant
Versus
Conwood Realty Pvt. Ltd. ...Respondent

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**Mr. Suresh Kumar**, for Appellant.

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**CORAM : M.S. Sonak &**
**Advait M. Sethna, JJ.**

**DATED : 12 November 2025**

**P.C.:-**

**1.** Heard Mr. Suresh Kumar, learned counsel for the Appellant.

**2.** Though the tax effect in this Appeal is less than Rs. 2 Crores, Mr Suresh Kumar submits that this Appeal, together with ITXA No.318 of 2025, relate to the same Assessee and to the assessment for the year 2012-2013. He submitted that the combined tax effect in the two appeals would exceed Rs. 2 Crores and, therefore, this Appeal may be heard on merits.

**3.** Without prejudice to the merits of the above submission, we have heard Mr Suresh Kumar on the merits of this Appeal. Mr Suresh Kumar proposes the following question of law for admission of this Appeal: -

> "1. Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was right in deleting the addition on account of interest of Rs.1,23,87,552/- u/s. 36(1)(iii) on account of

> investment in equity shares of Consolidated Crop Protection Pvt. Ltd. which is the subsidiary company of the assessee, by relying on the decision of Hon'ble Bombay High Court in HDFC Bank Ltd. without appreciating that identical issue is pending for consideration before the larger bench of the Hon'ble Apex Court in SLP(C) No.14729 of 2012 titled as Addl. CIT vs. Tulip Star Hotels Ltd. and also in the case of S.A. Builders vs. CIT (2007) 1 SSC 781."

**4.** In this case, the decision of the ITAT is based on the decision of the Co-ordinate Bench in the case of **Commissioner of Income Tax, Mumbai v. HDFC Bank Ltd**.[1]. The Co-ordinate Division Bench, in the case of **HDFC Bank Ltd**. (supra), in turn, had relied upon the decision in the case of **CIT v. Reliance Utilities and Power Ltd**.[2].

**5.** In the case of **South Indian Bank v. Commissioner of Income Tax**[3], the Hon'ble Supreme Court has expressly confirmed the decision in **Reliance Utilities** (supra) **and HDFC Bank Ltd.** (supra).

**6.** Mr Suresh Kumar, however, submitted that the issue in **HDFC Bank Ltd**. (supra) is pending in a reference before the Larger Bench. The reference, it appears, is in the context of certain observations in the case of **S.A. Builders Ltd**. **v. Commissioner of Income Tax (Appeals), Chandigarh**[4]**,** on the issue of commercial expediency in the use of surplus funds and related matters. In any event, mere pendency of a reference does not denude the precedential status of the original decision.

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1 (2014) 49 taxmann.com 335 (Bombay)

2 (2009) 313 ITR 340 (Bom)

3 438 ITR-I OR 283 taxmann.com 178

4 (2007) 158 Taxman 74 (SC)

**7.** Besides, in this matter, findings of fact recorded that investments were made using surplus points available to the principal company.

**8.** For all these reasons, we are satisfied that no substantial question of law is involved in this appeal. The Appeal is accordingly dismissed for want of substantial questions of law. No costs.

**(Advait M. Sethna, J)** **(M.S. Sonak, J.)**