(2007) 01 DEL CK 0112

In the Delhi High Court

Commissioner of Income Tax APPELLANT

Vs

Anand Kumar RESPONDENT

Date of Decision : 19-01-2007

Acts Referred:

Citation : (2007) 164 TAXMAN 330

Hon'ble Judges : Vikramajit Sen, J;Dr. S. Muralidhar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal was admitted on 1 -11 -2004 and the following sole substantial question of law was framed:

Whether the Income Tax Appellate Tribunal was correct in lave in holding that the assessed is entitled to reduce interest paid by it from the interest received by it, while calculating deduction u/s 80HHC(1) read with Explanation (baa) of the Income Tax Act, 1961?

2. From the impugned order of the ITAT it appears that the Assessing Officer in the present case treated the interest income as business income but only disallowed netting. When the Commissioner (Appeals) allowed netting of interest, the revenue went in appeal before the ITAT. It was correctly noted by the ITAT that the assessing officer having accepted the interest income as business income, the only question that required consideration was whether deduction should be of 90 per cent of the gross interest or net interest. This Court also confined the question of law only to this issue.

3. In view of our judgment rendered on 12-1-2007, the question is answered in the affirmative i.e., against the revenue and in favor of the assessed.

4. The appeal is dismissed.

