



a) Continuation Sheet

No.	Date	Orders
	% + *	13-02-2006 Present: Mr. R.D. Jolly, Adv. with Mr. Ajay Jha, Adv. for the appellants. None for the respondent. <u>ITA No.182/06</u> The respondent-assessee is engaged in the business of operating cellular mobile telephone services. In terms of a license awarded in its favour for operation of the said services in the states of Uttar Pradesh, Bihar, Orissa and West Bengal, the assessee was required to provide finance and performance bank guarantees to the Department of Telecommunications. The assessee appears to have arranged these bank guarantees from IFCI, NICL and Lord Krishna Bank. These institutions had in connection with the furnishing of the guarantees required deposit of margin money by the assessee. Interest earned/accrued on these margin money deposits became the subject matter of a dispute in the assessment year 1996-97. The Assessing Officer was of the view that interest on such deposits had to be taxed as income from other sources. Reliance was in support of that view placed by the Assessing Officer on a Supreme Court decision in Tuticorin Alkaline Chemicals and Fertilizers Ltd. Vs. CIT; 227 ITR 172. In appeal the view taken by the Assessing Officer was reversed by the Commissioner of Income Tax (Appeals) who held that the deposit of margin money with the banks was inextricably linked to the requirement of furnishing bank guarantees by the assessee. The deposits could not therefore be



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		<p>deemed to be parking of surplus funds so as to render income earned on the same exigible to tax as income from other sources. Reliance in support of that view was placed upon two decisions of Supreme Court in Bokaro Steel's case; 236 ITR 315 and Karnal Cooperative Sugar Mills case; 243 ITR 2.</p> <p>A further appeal by the Revenue filed before the Tribunal having failed, the former is in appeal before us under Section 260 A of the Income Tax Act.</p> <p>We have heard Mr. Jolly learned counsel for the Revenue and perused the record. The finding of fact recorded by the Commissioner and affirmed by the Tribunal is to the effect that the deposit of the margin money by the assessee with the banks was inextricably linked to the furnishing of the bank guarantees by the assessee to the Department of Telecommunications for obtaining a license. That finding in our view concludes the controversy inasmuch as if the deposits were indeed inextricably linked to the business of the assessee the question whether the income accruing on the said deposits would constitute business income stands answered by the decisions of Supreme Court in Bokaro Steel and Karnal Cooperative Sugar Mills' case (supra). Both these decisions are in our view sufficient authority for the proposition that where the income in the nature of interest flows from deposits made by the assessee which deposits are in turn inextricably linked to the business of the assessee the income derived on such deposits cannot be treated as income from other sources.</p> <p>In that light of what is said above no question of law</p> <p style="text-align: center;">ITA No.182/06 page 2 of 3</p>



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		<p data-bbox="414 190 1364 235">much less a substantial question of law arises for our consideration</p> <p data-bbox="414 280 1093 324">this appeal, which fails and is hereby dismissed.</p> <p data-bbox="1045 459 1300 548">(T.S. THAKUR) JUDGE</p> <p data-bbox="1013 683 1364 772">(B.N. CHATURVEDI) JUDGE</p> <p data-bbox="414 728 710 817">February 13, 2006 sa</p> <p data-bbox="582 862 821 907">ITA No.182/06</p> <p data-bbox="1077 862 1268 907">page 3 of 3</p>