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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA NO.523/2006

C.I.T.

.....Appellant

Through Ms.Prem Lata Bansal

versus

M/s Indo Kopp Ltd.

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE T.S.THAKUR

HON'BLE MR. JUSTICE SHIV NARAYAN DHINGRA

**ORDER**

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17.04.2006

The Assessing Officer noticed that the assessee had paid an amount of Rs.16,23,432/- towards interest to its trade creditors, regarding which it had claimed a deduction that was disallowed on the ground that the assessee had not recovered interest from its debtors one of whom happened to be its own sister concern. The Tribunal has by the impugned order reversed that view. It has in our opinion, correctly held that there was no direct linkage between interest which the assessee was paying to its creditors and the debts which it had to recover from other parties including its sister concern. The consideration for paying interest to trade creditors and for not charging interest from the trade debtors could indeed be different and could not be mixed up for purpose of



denying to the assessee a deduction otherwise due in law. The Tribunal has observed

follows:-

*"The revenue is in appeal. We have considered the rival contentions. The facts are not in dispute. The only argument of the learned DR is that the assessee ought to have also charged interest from the trade debtors. We are unable to accept then contention. The question before us is whether the assessee is justified in claiming the interest payment to its suppliers. The assessee's explanation which was found favour with the learned CIT (A), is not questioned or doubted. If that is so, the interest is allowable as a deduction, as expenditure wholly and exclusively incurred for the purpose of business u/S 37 (1). We are not concerned with the question as to whether the assessee ought to have charged interest from its trade debtors. In our opinion, even this question should be answered in favour of the assessee, since it is a well settled principles of income-tax law that a trader cannot be compelled to earn income, when it does not choose to do so. Further, the assessee's explanation that it is not in a position to charge interest from its trade debtors on account of stiff competition in the market has not been doubted or found in correct. The attempt of the AO to link the trade creditors and the trade debtors is futile. Both are unconnected and the assessee has different reasons for paying interest to its trade creditors and for not charging interest from its trade debtors. Both should not be mixed up which apparently has been done by the AO. We uphold the order of the learned CIT (A) and dismiss the appeal filed by the revenue."*

There is in our view, no legal infirmity or perversity in the view taken by the Tribunal. Just because the respondent/ assessee had not charged interest from its trade debtors did not mean that interest paid by it to its trade creditors should not be allowed as a deduction especially when there is no dispute about the genuineness of the payment

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made by the assessee.

No substantial question of law arises for our consideration in this appeal which fails and is hereby dismissed.

T.S. THAKUR, J

SHIV NARAYAN BHINGRA, J

APRIL 17, 2006

'ns'