



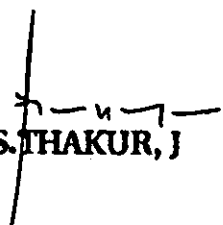
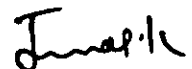
Sr. No.	Date	<p style="text-align: center;">Orders</p> <p style="text-align: center;">IN THE HIGH COURT OF DELHI AT NEW DELHI</p>
		<p>+ ITA 341/2006</p> <p>M/S INTERNATIONAL MARKETING LT Appellant Through: Mr. Vasdev Lalwani & Mr. S.S. Silwal, Adv.</p> <p style="text-align: center;">versus</p> <p>INCOME TAX OFFICER COMPANY WA Respondent, Through: Ms. P.L. Bansal with Ms. Sonia Mathur, Adv.</p> <p>CORAM: HON'BLE MR. JUSTICE T.S. THAKUR HON'BLE MR. JUSTICE J.M. MALIK</p> <p style="text-align: center;"><u>ORDER</u> 10.03.2006</p> <p>%</p> <p>The Assessing Officer, the Commissioner of Income Tax and the Income Tax Appellate Tribunal have concurrently held that the appellant-assessee had not carried on any business during the relevant assessment year. It had, all the same, parked its surplus funds with different companies and earned interest from the same. Relying upon the decision of the Supreme Court in <i>Tuticorin Alkali Chemicals Vs. C.L.T.</i>, 227 ITR 172, the interest income was taken as taxable income in the hands of the assessee from other sources.</p> <p>There is, in our opinion, no error of law in that view, keeping in view the pronouncements of the Supreme Court on the subject. The decision of the Apex Court in <i>Commissioner of Income Tax Vs. Autokust Ltd.</i>, 248 ITR 110 was a case where the assessee had borrowed money for purchase of plant and machinery from the Industrial Development Bank of India. The amount so borrowed was, however, invested in short-term</p>



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		<p>deposits in the banks and used for discounting of bills until payment was made to the supplier of the plant and machinery. The question was whether interest earned on these deposits was taxable in the hands of the assessee as income from other sources. Relying upon the decision of the Supreme Court in <i>Tuticorin Alkali's</i> case supra, the Court held that interest income earned by the assessee out of such short-term investment of money was income from other sources, no matter the amount invested had been borrowed by the assessee for purchase of plant and machinery.</p> <p>To the same effect is the decision of the Supreme Court in <i>Commissioner of Income Tax Vs. Dr. V.P. Gopinathan</i>, 248 ITR 449. The assessee had in that case invested money in a fixed deposit and earned interest on the same. It had also borrowed a loan and paid interest on the same. The question was whether interest earned by the assessee could be diminished by setting off interest paid by the assessee on the amount borrowed. Repelling the contention that it could be so diminished, the Court held that there was no provision under which interest earned by the assessee on fixed deposit could be diminished by interest paid by the assessee on loans that it may have borrowed.</p> <p>We have in the light of the above authoritative pronouncements, no difficulty in holding that the view taken by the Assessing Officer, the CIT and the Tribunal that interest earned by the assessee in the instant case on surplus funds parked with different companies was taxable as income from other sources.</p> <p>That leaves us with the question whether the expenses which the company had incurred could be disallowed. It was argued by couns-</p>



H.C.D.-I (a) Continuation Sheet

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		<p>appearing for the appellant that the company had commenced business since no business was actually transacted, the expenses incurred by it not be allowed. The authorities below have concurrently held that company has not transacted any business. That finding is conclusive so as this Court is concerned. If no business had been transacted, there was question of allowing any expenses in relation thereto. It is noteworthy the same that the Tribunal has allowed some expenses to the company maintaining its status and deducted the same out of the income from other sources. That part of the order, therefore grants a relief to the appellant which on a strict interpretation of law may not be admissible to it. In any event, since there is no appeal filed by the Revenue against the order passed by the Tribunal, we see no reason to interfere with the grant of that relief. No substantial question of law arises for our consideration. The appeal filed is and is hereby dismissed.</p> <p style="text-align: right;">  T.S. THAKUR, J  J.M. MALIK, J </p> <p>MARCH 10, 2006 ga</p>