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**% 07.07.2011**

Present: Mr. N.P. Sahni, Sr. Standing Counsel for the Income Tax/Appellant.

**+ ITA Nos.814/2011 & 815/2011**

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The facts which have been recorded by the CIT (Appeal) as well as ITAT are that the Assessee company had given certain bank guarantees worth ₹ 9 crore to statutory bodies like Gujarat Maritime Board and Gail India Ltd. in connection with the setting up of the LPG Project Terminal at Okha, Gujarat. The bank who furnished the bank guarantee to the statutory body on behalf of the Assessee called upon the Assessee to keep the amount with it in the form of fixed deposit under the lien with the bank for issuing the said bank guarantee. The Assessee earned interest on these fixed deposits which it has reduced from preoperative expended by it on setting up of the project Since said interest income has been received in pre-operative period, the Assessing Officer treated the aforesaid interest as income from other sources and did not allow it to be reduced from pre-operative expenses. This order of the Assessing Officer was reversed by CIT(A) holding that the interest income was received in pre-commencement period and was directly connected with the setting up of the project. The Assessee was forced to keep the aforesaid amount with the bank under the lien of the bank in order to enable the Assessee to secure



bank guarantees from the bank which was to be necessarily furnished by the Assessee to the statutory bodies for setting up of LPG Project Terminal at Okha, Gujarat.

It is clear from the above that the money was kept with the bank for the purpose which was directly connected with the setting up of the project and interest thereupon could not be treated as income from other sources and it was permissible for the Assessee to reduce the same from pre-operative expenses.

The CITA and the ITAT have referred to the decision of the Supreme Court in CIT v. Bokaro Steel Ltd. [1999] 236 ITR 315(SC), CIT v. Karnal Cooperative Sugar Mills Ltd. [2000] 243 ITR 2(SC) as well as various decisions of the different High Courts.

In view of the aforesaid factual background, we do not find any infirmity in the orders passed by CIT (A). No question of law arises in these appeals. The appeals are hereby dismissed.

**A.K. SIKRI, J.**

**M.L. MEHTA, J.**

**JULY 07, 2011**

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