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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **ITA 621/2012**

DIRECTOR OF INCOME TAX ..... Appellant

Through : Sh. Abhishek Maratha, Sr. Standing Counsel with Ms. Anshul Sharma.

versus

CARGIL TSF PTE LTD ..... Respondent

Through : Sh. Vikas Jain, Advocate.

\+ **ITA 623/2012**

DIRECTOR OF INCOME TAX ; INTERNATIONAL TAXATION -I NEW DELHI

..... Appellant

Through : Sh. Abhishek Maratha, Sr. Standing Counsel with Ms. Anshul Sharma.

versus

CARGIL TSF PTE LTD ..... Respondent

Through : Sh. Vikas Jain, Advocate.

\+ **ITA 624/2012, C.M. APPL.18532/2012**

DIRECTOR OF INCOME TAX ..... Appellant

Through : Sh. Abhishek Maratha, Sr. Standing Counsel with Ms. Anshul Sharma.

versus

CARGIL TSF PTE LTD ..... Respondent

Through : Sh. Vikas Jain, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE R.V.EASWAR

ORDER

% **19.11.2012**

The present appeals are directed against the three orders of the Income Tax Appellate Tribunal (ITAT) dated 19.08.2011 for the Assessment Years 2005-06, 2006-07 and 2007-08.The questions of law sought to be urged on behalf of the Reveneue is:

> "*Whether the Tribunal fell into error in holding that the discounting charges earned by the assessee from Indian parties by discounting bills of exchange and promissory notes did not amount to interest as defined under Section 2(28A) of the Income Tax Act?*"

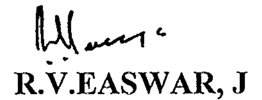
The assessee in this case is incorporated in Singapore and is a tax resident of that State. During the relevant year it used to provide financial services, including subscription,buying, underwriting or otherwise acquire, own, hold, sell or exchange securities or investments of any kind. It filed its returns which were assessed to tax on the basis of scrutiny assessment. The Assessing Officer (AO) was of the opinion that the assessee had earned discounting charges by discounting bill of exchange in favor of the Indian companies which it had claimed as discounting charges and not part of its business income. The AO treated all these amounts, i.e. the bill discounting fees earned by the assessee as interest income on the loans extended by the assessee to its customers. The CIT(Appeal) on being approached by the assessee confirmed the order of the AO. The Tribunal in the appeals filed by the assessee, analysed the nature of discounting services provided by the assessee to its customers and applied its ratio in the previous ruling, i.e. ITA 684/Del/2009 for Assessment Year 2004-05 in M/s. Cargil Global Trading India (P) Ltd. and set aside the order of the CIT (Appeal) and the AO. The Tribunal also noticed that its order for Assessment Years 2004-05 and 2005-06 had been carried in appeal before this Court which confirmed and adopted the reasoning in its order dated 17.02.2011. In the present case, the Tribunal, therefore, allowed the assessee's appeal, holding as follows:

> "The discounting charges are to be treated as business income and consequently the appeals filed by the assessee for assessment years 2006-07 and 2007-08, i.e. ITA No. 3057/Del/11 and ITA No.3880/Del/10 are allowed. In ITA No. 3880/Del/10, the assessee has challenged the charging of interest under sec. 234B of the Act. Since, we have deleted the main addition in respect of taxability of discounting charges as interest income. This issue in the light of our observations would require to be readjudicated. In other words, it is consequential in nature."

This Court notices that in the decision of the Court confirming the previous ruling of the Tribunal (reported as *CIT v. Cargill Global Trading (I) (P) Ltd.* 2011 (335) ITR 94), the Court took into consideration the definition of "interest" under Section 2(28A) of the Act and also analysed the contents of two circulars issued by the CBDT, being No.65 dated 02.09.1971 and the subsequent one dated 22.03.1993 (Circular No. 647), and confirmed the reasoning of the Tribunal that discounting charges did not amount to

interest and was not subject to tax. The Court deleted the disallowance under Section 40(A)(i) of the Income Tax Act. In view of this reasoning which this Court fully concurs with, no substantial question of law arises. The appeals are dismissed.

S. RAVINDRA BHAT, J



R.V.EASWAR, J

NOVEMBER 19, 2012
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