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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 113/2012

Date of decision: 21st February, 2012

CIT Appellant

Through: Ms. Anshul Sharma, Adv.

versus

TAJ INTERNATIONAL JEWELLERS Respondent

Through: Mr. S. Krishnan, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE R.V.EASWAR

SANJIV KHANNA, J.: (ORAL)

1. Ms. Suruchi Aggarwal, Standing Counsel who appears on behalf of Mr. Abhishek Maratha is granted permission to place on record the correct assessment order (Annexure-A1 to this appeal).
2. This appeal which pertains to assessment year 2007-08 relates to issue of netting of interest paid of Rs.1,85,62,489/- from the gross interest on Fixed Deposit Receipts of Rs.2,64,79,712/-.



3. The assessee had availed of loan from a Bank and accordingly had paid the aforesaid interest. The loan amount was deposited and converted into Fixed Deposit Receipts as the respondent-assessee required them for opening letters of credit etc. The assessee had earned interest of Rs.2,64,79,712/- on the said deposits and the same was shown under the head “income from other sources”. As the assessee had also paid interest on the loan of Rs.1,85,62,489/-, the same was reduced while calculating the taxable income under the head “income from other sources”.

4. There is no dispute that the money obtained on loan and was converted and made into FDRs. The assessee had followed the same practice or method of account/treatment for the assessment year 2005-06 and 2006-07. The Assessing Officer had made similar additions in the said years and did not allow netting of the interest paid on the loan from the interest received on deposits. On appeal, the assessee succeeded before the tribunal. A



Division Bench of this Court vide decision dated 13.12.2010, reported in (2011) 335 ITR 144 has dismissed the appeal of the Revenue and held that the interest paid should be allowed under Section 57(iii) of the Act as the amount was borrowed from the bank taking advantage of the Exim Policy as well as lower LIBOR rate of interest. The interest paid was expenditure laid out and expended wholly and exclusively for the purpose of making or earning the interest income. Following the aforesaid decision and the reasoning therein, the present appeal is dismissed. No costs.

SANJIV KHANNA, J

R.V.EASWAR, J

FEBRUARY 21, 2012

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