

IT: Where High Court upheld Tribunal's order deciding issue of levy of interest under section 234B in assessee's favour merely on basis of its earlier order passed in another case, SLP filed against said decision of High Court was to be granted

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[2019] 105 taxmann.com 312 (SC)

SUPREME COURT OF INDIA

Commissioner of Income-tax, International Taxation

v.

Shanghai Electric Group Co. Ltd.*

ROHINTON FALI NARIMAN AND VINEET SARAN, JJ.
SPECIAL LEAVE PETITION(CIVIL) DIARY NO(S). 1975/2019†
FEBRUARY 1, 2019

Section 234B of the Income-tax Act, 1961 - Interest, chargeable as - In appellate proceedings, Tribunal decided issue regarding interest payable under section 234B in assessee's favour - In earlier assessment year, High Court had dismissed revenue's appeal by following its order passed in case of CIT (International Taxation) v. Shanghai Electric Group Co. Ltd. In [IT Appeal No. 409-410 of 2018, dated 9-4-2018] - For same reason, High Court rejected revenue's appeal for relevant year as well - Whether, on facts, SLP filed against order of High Court was to be granted - Held, yes [Para 2][In favour of revenue]

CASE REVIEW

CIT (International Taxation) v. Shanghai Electric Group Co. Ltd. [2019] 105 taxmann.com 311 (Delhi) [SLP granted See Annex].

Guru Krishna Kumar, Ms. Rekha Pandey, Ms. Meenakshi Grover, Advs. and Mrs. Anil Katiyar, AOR for the Petitioner.

ORDER

1. Delay condoned.
2. Leave granted.
3. Tag with C.A. No. 18311/2017.

ANNEX

[2019] 105 taxmann.com 311 (DELHI)

HIGH COURT OF DELHI

Commissioner of Income Tax (International Taxation) v. Shanghai Electric Group Co. Ltd.

S. RAVINDRA BHAT AND VINOD GOEL, JJ.
IT APPEAL NO.497 OF 2018

CM APPL. NO. 16308-09 OF 2018
APRIL 25, 2018

Ruchir Bhatia, Adv. for the Appellant.

ORDER

1. The only question of law urged by the Revenue in this appeal under Section 260-A of the Income Tax Act, 1961 (hereinafter 'the Act') is with respect to the alleged interest payable by the assessee under Section 234B of the Act. At the outset, this Court notices that for another assessment year this Court had, following its previous order in [IT Appeal No.409-410 of 2018, dated 9-4-2018] *CIT (International Taxation) v. Shanghai Electric Group Co. Ltd.* rejected the Revenue's appeal. The Court had then noted as follows:—

"The Revenue's appeals questions the decision of the ITAT with respect to collection of interest on non-deposit of advance tax, in regard to the amount received by non-resident/assessee. Identical appeals for another assessment year (ITA 409-410/2018, *The commissioner of Income Tax International Taxation-3 v. Shanghai Electric Group Co. Ltd.*) were rejected by this Court on 09.04.2018. The Court had then observed as follows:

'The Tribunal (Income Tax Appellate Tribunal) had followed the decisions of this Court in the case of *'Director of Income Tax v. Jacobs Civil Incorporated'*, (2001) 330 ITR 578, *'Director of Income Tax, International Taxation v. GE Packaged Power Inc. and ors.'*, [\(2015\) 373 ITR 65](#) and *'Commissioner of Income Tax, International Taxation-2 v. ZTE Corporation'*, (2017) 392 ITR 80.

Since the Tribunal followed the rulings of this Court no question of law arises. These appeals are dismissed as untenable along with pending applications.'

For the same reasons the present appeal is rejected along with pending applications."

2. For the same reasons, this appeal does not involve any substantial question of law. It is accordingly dismissed.

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*In favour of revenue.

†Arising out of order of High Court in *CIT (International Taxation) v. Shanghai Electric Group Co. Ltd.* [2019] 105 taxmann.com 311 (Delhi).