

Brokerage paid to mobilize public deposit was revenue exp. if interest was payable on it and deposit had fixed term

Summary – The High Court of Karnataka in a recent case of Karnataka Power Corporation Ltd., (the Assessee) held that Brokerage paid for mobilising public deposit is revenue expenditure.

Facts

- The assessee had debited brokerage paid to agents to canvas public deposit and claimed the said brokerage charges as a revenue expenditure.
- The Assessing Authority denied the claim citing the reason that the said public deposit were mobilized to expand the capital base of the company which incidentally helped in the business of the company and also would help in earning profit.
- On appeal, the Commissioner (Appeals) set aside the said finding and held that it constituted as a revenue expenditure.
- On second appeal, the Tribunal, too affirmed the said finding.
- On appeal to the High Court :

Held

- The assessee mobilized public deposits. The said deposit was made for a fixed period and interest was payable during the period of deposit. After the maturity of the said deposit, the assessee has to return the amount received as deposit. Therefore, the said amount cannot be construed as a receipt for increasing the capital base.
- An expenditure takes the colour from the thing on which the expenditure is made. If the money is spent to expand the capital, then the money to the extent is capital, but if the money is spent not for obtaining the capital, then the expenditure takes the colour of the revenue expenditure.
- The assessee has borrowed money. Brokerage is paid for the services so rendered. The said money does not constitute the capital. On the contrary, the said money is utilized for working capital and, therefore, both the Appellate Authorities were justified in holding that the said expenditure partakes the character of a revenue expenditure and not capital expenditure. Accordingly, the substantial question of law is answered in favour of the assessee and against the revenue.