

Interest paid to be set-off against interest earned on lending to holding Co. for commercial expediency

Summary – The High Court of Delhi in a recent case of Vodafone South Ltd., (the Assessee) held that Netting off of interest on bank borrowings allowed u/s 57(iii) against interest earned from onlending to holding company if onlending to holding co. is based on commercial expediency and terms of bank loan permit such onlending and the income and expenditure do not pertain to the pre-operative period

Facts

- In the present case, the advancing of loan to SCL was a business decision taken by the Assessee out of commercial expediency.
- Further, the sanction letter of HSBC made it clear that the Assessee could draw loans up to the sanctioned limit as and when needed.
- The sanction letter also allowed assessee to further utilise the money borrowed to advance loans to others.
- The sum of Rs. 25 crores drawn by the Assessee on 24th December 2001 in terms of HSBC's sanction letter was transferred to SCL on the very same date.
- Without the facility of credit by the HSBC, the Assessee could not have advanced the loan to SCL.
- Therefore, there was a direct nexus between the earning of interest on the loan advanced by the Assessee to SCL and payment of interest to HSBC on the loan drawn in terms of the sanction letter dated 2nd August 2001. The income earned on the loan advanced to SCL was rightly offered to tax by the Assessee as "income from other sources".
- Since the interest paid to HSBC on the loan availed was in the nature of an expenditure wholly and exclusively laid out for the purpose of earning the interest income, it ought to be permitted to be netted against such 'income from other sources' in terms of Section 57 (iii).
- Since this was no longer a pre-operative phase, the interest paid to HSBC would in any event have been allowable as business expenditure under Section 36 of the Act for AY 2003-04.