IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1775 OF 2013
WITH
INCOME TAX APPEAL NO. 1789 OF 2013

Director of Income Tax (IT)-II, Mumbai ..Appellant

Vs.

Oman International Bank S.A.O.G. ..Respondent

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Mr. Tejveer Singh, Advocate for Petitioner.
Mr. Percy Pardiwalla, Sr. Advocate with Niraj Sheth, Rushabh Mahesh Sheth, Pooja Batra, Advocates i/b M/s M.S. Bodhanwalla & Co. for Respondents.

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CORAM : M.S. SANKLECHA &
N.M. JAMDAR, JJ.
DATED : 1 JULY 2015

P.C.:

These appeals by revenue challenges the common order dated 22 March 2013 passed by the Income Tax Appellate Tribunal (the 'Tribunal') disposing of the cross appeals filed by the assessee as well as the revenue before it for the Assessment Years 1998-99 and 1999-2000.

2. Mr. Tejveer Singh, the learned Counsel for the Revenue reformulates Question 1 for both the Assessment Years as under:-

> "Whether on the facts and circumstances of the case and in law, the Tribunal was correct in holding that addition on account of interest received from Head Office has been wrongly made by the AO?"

3. The only other question being urged by him for admission in both the Assessment Years before us is Question 3 as formulated in both appeal memos which is renumbered herein as Question 2 and reads as under:

> "Whether on the facts and circumstances of the case and in law, the Tribunal is correct in holding that section 44C is not applicable and these expenses are allowable and u/s. 37(1) of the I.T. Act without appreciating the fact that the traveling expenses are incurred on traveling of Head Office personnel who have traveled to various Indian branches and they are not employees of the Indian Branch."

4. So far as Question 1 is concerned, it is agreed position between the parties that the issue arising herein stands covered against the Revenue and in favour of the assessee by virtue of the decision of this Court in Income Tax Appeal No. 1430/2013 in the

case of Director of Income Tax Vs. M/s Credit Agricole Indosuez rendered on 17 June 2015 being Question No.5 therein. In this case similar to that in M/s Credit Agricole Indosuez, the respondent-assessee has not claimed benefit of DTAA. Accordingly, Question 1 as formulated does not give rise to any question of law and thus, we do not entertain it.

5. So far as Question 2 is concerned, the impugned order of the Tribunal has followed the decision of this Court in ***CIT Vs. Emirates Commercial Bank Ltd. 262 ITR 55*** to extend the benefit in favour of the respondent-assessee. Further in respect of the Assessment Year 1996-97 in case of the same respondent-assessee, the revenue had preferred an appeal being Income Tax Appeal (L) No. 1889/2012 to this Court from the order of Tribunal raising an identical question. The identical question was dismissed by this Court on 26 February 2013. This by following the decision of this Court in Emirates Commercial Bank Ltd. (supra). We are informed that the SLP filed by the revenue against the aforesaid decision dated 26 February 2013 was also dismissed by Supreme Court.

Accordingly, Question 2 also does not raise any substantial question of law and thus not entertained.

6. Accordingly, appeal is dismissed. No order as to costs.

[N.M. JAMDAR, J] **[M.S. SANKLECHA, J.]**