

Income Tax Appeal No. 62 of 2010(O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Income Tax Appeal No. 62 of 2010(O&M)
Date of decision: 15th February, 2010**

**The Commissioner of Income-Tax, Panchkula
.....Appellant**

Versus

**M/s Haryana State Co-op Apex Bank Ltd.,
Sector-17 B, ChandigarhRespondent**

**Coram: HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. Yogesh Putney, Senior Standing Counsel
for Income Tax Department,
for the appellant.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported
in the Digest?

M.M.Kumar, J.

This instant appeal by the Revenue has been preferred under Section 260(A) of the Income Tax Act, 1961(for brevity 'the Act') challenging order dated 26.06.2009, passed by the Income Tax Appellate Tribunal, Chandigarh(for brevity "the Tribunal") Bench in ITA No. 555/CHD/2009 for the assessment year 2006-2007. The Tribunal while upholding the order of the Commission of Income Tax(appeal) has reached the conclusion that the assessee-respondent, which is a cooperative apex bank, cannot be subjected to income tax in respect of the interest

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received by it on the refund of excess income tax paid. It has further been found that the assessee-respondent would be entitled to deduction under Section 80P(2)(a)(i) of the Act. The Tribunal has also placed reliance on a judgment of the Madras High Court in the case of "**CIT Vs. Madurai District Cooperative Bank Ltd.**" (1999)239, ITR 700. It has come on record that the respondent bank has been carrying on business of banking and also provide credit facility to its members. We are not impressed with the argument that the interest on refund of income tax paid in excess was not attributable to the income derived from the business of banking within the meaning of Section 80P(2)(a)(i) of the Act. Once the income tax paid was derived from the business income then interest income would part-ake the character of the principal amount because the interest paid to the assessee-respondent is compensation on account of deprivation of the use of money.

In view of the above, we do not find any merit in the appeal. The order passed by the Tribunal does not suffer from any legal infirmity, warranting interference of this Court. The appeal is accordingly dismissed.

[M.M.KUMAR]
Judge

[JITENDRA CHAUHAN]
Judge

15th February, 2010

Shivani Kaushik