

Bihar Police Building Construction Corporation Pvt. Ltd.

Civil Writ Jurisdiction Case No.17037 of 2022

FORUM

Patna High Court

ORDER DATE

05 Sep 2023

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

It is not an activity inextricably connected with the construction of buildings and it does not in any manner reduce the cost of construction; as in the case of interest earned on borrowed funds parked in short term deposits, with which borrowed funds the construction is carried out. In the case of the assessee herein the funds parked in deposits, out of the grants received, are surplus funds; since the amounts earned by the assessee from the deposit of such funds are set-off from the grants for the subsequent year. The principle in Tuticorin Alkali Chemicals and Fertilizers Ltd. (supra) applies squarely and not that of Bokaro Steel Ltd., (supra). 10. The circular of the State Government providing for deduction of grants in the successive years to the extent of the interest earned from the grants of the earlier year, cannot regulate the taxability under the Income Tax Act. If at all, income tax is deducted from the interest earned, the Corporation would be entitled to request the Government to not deduct the amounts paid as income tax from the grants of the subsequent years. The circular issued by the State Government regulating the business/transaction between the Government and it's Corporation cannot have any effect on the taxability of the interest income which is deemed to be income from other sources under Section 56 of the Income Tax Act. 11. There is no question of any deduction being permitted, as permissible under Section 36 (i)(iii) of the Act, which is with respect to interest paid on borrowed capital for the purpose of business or profession, there is no such factual ground raised herein. 12. We find absolutely no reason to entertain the writ petition and dismiss the same.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 807-815

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