

**(2002) 06 MAD CK 0209**

**Madras High Court**

**Case No:** T.C. No. 433 of 1988 24 June 2002 A.Y. 1979-80

J.H. Tarapore

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

**Date of Decision:** June 24, 2002

**Citation:** (2002) 176 CTR 559

**Hon'ble Judges:** V.S. Sirpurkar, J; N.V. Balasubramanian, J

**Bench:** Full Bench

**Advocate:** V. Ramachandran for Mrs. Anita Sumanth, for the Assessee T.C.A. Ramanujam, for the Revenue, for the Appellant;

### **Judgement**

By the Court

The question referred at the instance of the assessee is as follows :

"Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the sum of Rs. 8,538 received as interest on the contract work executed by the erstwhile firm was an income liable to be taxed?"

2. Here also, we need not set out the facts as they are stated in details in pares. 4 to 7 of our judgment in Tax Case Nos. 587 and 588 of 1984.

3. The sum of Rs. 8,358 represents the interest on the amount of Rs. 9,90,426, with which we have dealt in Tax Case No. 1212 of 1987. The Tribunal held this sum of Rs. 9,90,426 to be the capital asset and hence not taxable. We have already taken a view in Tax Case No. 1212 of 1987 in respect of the same assessee that such amount cannot amount to capital receipt and must be held as revenue receipt and hence taxable. The present sum of Rs. 8,538 is only an interest included in the total amount of Rs. 9,90,426. That being the position, on facts, we hold that the amount of Rs. 8,358 is clearly assessable at the hands of the assessee as his income.

4. In that view the question referred is answered against the assessee and in favour of the revenue.

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