

ITEM NO.4

COURT NO.1

SECTION III

**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS**

CIVIL APPEAL NO(S). 12632/2017

COMMISSIONER OF INCOME TAX (LARGE TAX PAYER UNIT) APPELLANT(S)

VERSUS

M/S. GLENMARK PHARMACEUTICALS LTD.

RESPONDENT(S)

Date : 11-12-2018 This appeal was called on for hearing today.

CORAM :

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH**

For Appellant(s)

**Mr. Ritesh Kumar, Adv.
Ms. Meenakshi Grover, Adv.
Mrs. Anil Katiyar, AOR**

For Respondent(s)

**Mr. Percy Pardiwalla, Sr. Adv.
Mr. Puneet Jain, Adv.
Ms. Christi Jain, AOR
Mr. Abhinav Gupta, Adv.
Mr. Harsh Jain, Adv.
Ms. Ankita Gupta, Adv.**

**UPON hearing the counsel the Court made the following
O R D E R**

**The following two questions arise for determination
in this appeal filed by the Revenue.**

**(i) With respect to addition of Rs.11,51,24,333/- to the
income of the assessee (respondent herein) made by the
Assessing Officer (A.O.) on account of guarantee commission
chargeable to its Associate Enterprises, whether the**

benchmark fixed by the Transfer Pricing Officer (TPO) for the international transaction by considering arm's length rate of the bank guarantee at 3% under Section 92CA(3) of the Income Tax Act, 1961 was correct?

(ii) Whether interest was not payable by the assessee/respondent under Section 234B of the Income Tax Act, 1961 on failure to deposit the advance tax in respect of tax payable under Section 115JB of the Income Tax Act, 1961?

Insofar as question No.(i) is concerned we have perused the order of the learned Tribunal and the order of the High Court affirming the view taken by the learned Tribunal.

On such consideration we find that question No.1 has been rightly decided by the High Court in favour of the Assessee and against the Revenue. The same would, therefore, not require reopening in this appeal.

Insofar as question No.(ii) i.e. interest payable under Section 234B of the Income Tax Act, 1961 is concerned, the matter will require an in-depth hearing.

List the appeal on the said question i.e. question No.(ii) as per its turn.

[VINOD LAKHINA]
AR-cum-PS

[ANAND PRAKASH]
BRANCH OFFICER