NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No.6 of 2012

Assistant Commissioner of Income Tax – 1(2), Raipur, Chhattisgarh

---- Appellant

versus

Sarda Energy and Minerals Ltd. (Formerly Chhattisgarh Electricity Co. Ltd.), 73-A, Central Avenue, Nagpur

---- **Respondent**

Tax Case No.10 of 2012

Assistant Commissioner of Income Tax – 1(2), Raipur, Chhattisgarh

---- Appellant

versus

Sarda Energy and Minerals Ltd. (Formerly Chhattisgarh Electricity Co. Ltd.), 73-A, Central Avenue, Nagpur

---- **Respondent**

AND

Tax Case No.12 of 2012

Assistant Commissioner of Income Tax – 1(2), Raipur, Chhattisgarh

---- Appellant

versus

Sarda Energy and Minerals Ltd. (Formerly Chhattisgarh Electricity Co. Ltd.), 73-A, Central Avenue, Nagpur

---- **Respondent**

For Appellant	:	Smt. Naushina Afrin Ali, Advocate
For Respondent	:	Shri Neelabh Dubey, Advocate

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per Navin Sinha, Chief Justice

12/8/2015

1. In this batch of appeals filed by the Department, the assessee is common and only the assessment years differ. The facts and the questions of law with regard to Section 263 of the Income Tax Act, 1961 (for short 'the Act') are also common and therefore they have been heard together and are being disposed by this common order.

2. Vakalatnama has been filed on behalf of the assessee in Tax Case No.10 of 2012. Shri Neelabh Dubey, Advocate submits that he has been authorised to represent the assessee in all the other appeals and shall be filing his Vakalatnama within a period of one week. Learned Counsel for the Appellant has no objection to the same.

3. Learned Counsel for the Appellant submits that the question with regard to sale of electricity produced from the Captive Power Plant to another unit of the assessee and the rates with regard to the same stand covered by an order of the Court in Tax Case No.31 of 2012. The appeal may therefore be disposed in terms of the same.

4. We additionally find that the Tribunal has also noticed more than one earlier decisions of the Tribunal on the issue and has rightly disapproved the approach of the Commissioner of Income Tax differing with the earlier orders of the Tribunal holding that the very foundation of the exercise conducted by the Commissioner "was devoid of legally sustainable basis". The Tribunal has rightly criticised the judicial adventurism indulged in by the Commissioner of Income Tax in a system of hierarchy with regard to quasi-judicial forums and Tribunals.

5. The appeals are dismissed.

Sd/-	Sd/-
(**Navin Sinha**)	(**P. Sam Koshy**)
CHIEF JUSTICE	**JUDGE**

Gopal