IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

INCOME TAX APPEAL NO. 79 OF 2013
WITH
INCOME TAX APPEAL NO. 48 OF 2011

The Commissioner of Income Tax, Aurangabad ...Appellant

versus

M/s. Rucha Engineers Pvt. Ltd. ...Respondent

…..

Mr. Alok Sharma, Advocate for the appellant
Mr. S.V. Advant, Advocate for the respondent

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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 7th JANUARY, 2015

P.C. :-

1. Both these appeals are disposed of by this common order, as the facts in these appeals are almost similar. Both these appeals are filed by the Income Tax Department challenging the concurrent findings recorded by the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal, holding that the Assessing Officer had erred in bringing the tax under Section 41 (1) of the Income Tax Act. The difference between the principal value of sales-tax deferral loan and net present value credited to Capital Reserve. Both these authorities have considered the case quite cogently and held that the

amount so credited to capital reserve was not the revenue received.

2. This Court in Income Tax Appeal Nos. 450 of 2013, 453 of 2013 and other connected Appeals, comprehensively, held that such credit should not be considered as revenue receipt.

3. We have perused the judgment referred to above and found that the Division Bench of this Court has considered the question comprehensively taking into account the entire gamut relating to law and the arguments advanced by the appellant. There is one more judgment delivered by the Division Bench of ***Karnataka High Court in the case of Commissioner of Income Tax and another vs. M/s. McDOWELL & CO LTD, in Income Tax Appeal No. 899 of 2008, dated 2.9.2014.***

4. We have no difficulty in accepting the findings recorded by the lower authorities. We hold that, in view of the settled law, there appears no substantial question of law arise in these appeals. The appeals stand disposed of accordingly.

(V. K. JADHAV, J.) **(A. V. NIRGUDE, J.)**

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