IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

INCOME TAX APPEAL NO.1 OF 2015 WITH
INCOME TAX APPEAL NO.2 OF 2015 WITH
INCOME TAX APPEAL NO.3 OF 2015 WITH
INCOME TAX APPEAL NO.4 OF 2015 WITH
INCOME TAX APPEAL NO.5 OF 2015 WITH
INCOME TAX APPEAL NO.6 OF 2015 WITH
INCOME TAX APPEAL NO.7 OF 2015 WITH
INCOME TAX APPEAL NO.8 OF 2015 WITH
INCOME TAX APPEAL NO.9 OF 2015 WITH
INCOME TAX APPEAL NO.10 OF 2015 WITH
INCOME TAX APPEAL NO.11 OF 2015 WITH
INCOME TAX APPEAL NO.12 OF 2015 WITH
INCOME TAX APPEAL NO.13 OF 2015 WITH
INCOME TAX APPEAL NO.14 OF 2015 WITH
INCOME TAX APPEAL NO.15 OF 2015 WITH
INCOME TAX APPEAL NO.16 OF 2015

The Commissioner of Income Tax (TDS) ... APPELLANT

VERSUS

Pushpadanteshwar Sahakari Sakhar Karkhana Ltd. ... RESPONDENT

.....

Shri Alok Sharma, Standing Counsel for appellant
Shri S.P. Brahme, Advocate for respondent

.....

CORAM: S.V. GANGAPURWALA AND A.I.S. CHEEMA, JJ.

DATED: 25th March, 2015.

ORAL ORDER :

1. All these matters are based on similar set of facts and involve common question of law. As such, are decided together.

2. Mr. Sharma, learned counsel for the appellant states that the present respondent failed to deduct the tax deducted at source while making payment to the contractors and transporters. According to the learned counsel, on failure to deduct the T.D.S. as laid down under Section 194-C of the Income tax Act, the consequences as laid down under Section 201 of the Income Tax Act would follow. According to the learned counsel, for subsequent years, the certificate being obtained would be of no consequence as far as the applicability of Section 201 read with 194-C of the Income Tax Act is concerned. The Commissioner, Income Tax so also the Tribunal have committed error in giving the benefit to the contractors being poor labourers. The fact that the income of these contractors is not liable for tax is no ground available with the appellant in not deducting the T.D.S. The authorities of the Tribunal have committed error in that regard.

3. We have considered the judgment delivered by the Commissioner and the Tribunal. The authorities, on appreciation of evidence, have concurrently come to the conclusion that these contractors are not liable to pay income tax, their income is meager, thereby not liable to pay income tax. Even for subsequent years, the assessing officer has granted them the certificate of “Nil” as required under Section 194-C of the Income Tax Act.

4. It has been observed by the Commissioner in his judgment that, in fact the amount is paid by the cane-growers to the transporter as it is not practically possible for each and every cane-grower to come to the gate and pay the amount of transportation and harvesting to the contractor. The payment is made by individual cane-grower to the transporter and the harvesting contractor.

5. Considering all aforesaid aspects of the matter, no substantial question of law arises in the appeals. As such, the appeals are dismissed. No costs.

(A.I.S. CHEEMA, J.) (S.V. GANGAPURWALA, J.)

fmp/ita1.15