IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 2223 OF 2011

The Commissioner of Income Tax-V, Mumbai ..Appellant

Vs.

Aurangabad Electricals Ltd. ..Respondent

WITH
INCOME TAX APPEAL (L) NO. 976 OF 2011
WITH
INCOME TAX APPEAL NO. 2326 OF 2011

The Commissioner of Income Tax-V, Pune ..Appellant

Vs.

Automotive Stampings and Assemblies Ltd. ..Respondent

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Mr. N.N. Singh, Advocate for Appellant.
Ms. Sanjukta Chowdhary i/b PKP Legal Solutions for Respondent in ITXA No. 2223/2011.
Mr. Percy Pardiwalla, Sr. Advocate i/b Atul Jasani for Respondent in ITXAL No. 976/2011 and ITXA No. 2326/2011.

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CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.
DATED : 18 FEBRUARY 2015

P.C.:

1. At the request of the Counsel, all the three appeals were listed on board for final hearing as according to them the issue raised herein is covered by the decision of this Court.

2. In all the three appeals an identical issue arises for our consideration i.e. whether the amount of discount granted to the respondent/assessee on account of earlier payment of deferred sales tax loan is chargeable to tax on remission under Section 41(1) of the Income Tax Act, 1961 (the 'Act') or is it not chargeable to tax as it it a Capital Account.

3. The impugned order in all the three appeals have followed the decision of Special Bench of Tribunal in ***Suzler India Ltd. Vs. Jt. CIT*** reported in ***42 SOT 457***. The revenue had challenged the decision of Tribunal in Suzler India Ltd. (supra) in Appeal No. 450/2013. The appeal by revenue has been dismissed by order dated 5 December 2014. Thus affirming the view of the Special Bench of the Tribunal in Suzler India Ltd. (supra) that the remission is a capital receipt. Thus not liable to tax.

4. It is agreed between the Counsel that the issue arising in all the three appeals stands concluded against the revenue and in favour of the appellant by order of this Court in Suzler India Ltd. (supra).

5. Accordingly, following the decision in Suzler India Ltd. (supra), all the three appeals are dismissed. No order as to costs.

[G.S. KULKARNI, J] **[M.S. SANKLECHA, J.]**