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

INCOME TAX APPEAL NO. 130/2013.
The Commissioner of Income Tax-IV, Nagpur.
-**VERSUS-**
M/s. Ferro Alloys Corporation Limited, Tumsar.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri Anand Parchure, Advocate for the Appellant.
Shri L.S. Dewani, Advocate for the Respondent.

CORAM : SMT.VASANTI A. NAIK AND A.M. BADAR, JJ.

DATE : JULY 23, 2015.

Heard.

By this Income Tax Appeal, the appellant / department challenges the order of the Income Tax Appellate Tribunal dated 05.04.2013, dismissing the appeal filed by the appellant / department and upholding the orders of the Commissioner of Income Tax (Appeals).

We find on hearing the learned Counsel for the parties and on a perusal of the order of the Tribunal as also the judgment of Allahabad High Court reported at **<u>(2014) 369 itr 304 (All) (Commissioner of Income Tax .vrs. Vacment India)</u>**, that the issue involved in this case is rightly answered against the appellant – Department by the Tribunal. The Tribunal, on perusal of the ITR Form and the provisions of Section 115JAA has held that the credit is to be allowed out of the tax payable in accordance with the Income Tax Act, 1961 and the surcharge has to be calculated on the balance tax payable, if any, as per the relevant Finance Act of the particular year. While holding so, the Tribunal has considered the columns in the ITR forms and the provisions of the Act of 1961. The order of the Tribunal can be supported by the judgment of Allahabad High Court in case of *Commissioner of Income Tax .vrs. Vacment India* (supra), in which the issue clearly stands answered against the appellant / department.

Since no substantial question of law arises in this income tax appeal, the Appeal is dismissed, with no order as to costs.

<u>JUDGE</u> **<u>JUDGE</u>**

Rgd.