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

INCOME TAX REFERENCE NO. 266 OF 1999

M/s. GTC Industries Ltd. .. Applicant

v/s.

The Commissioner of Income Tax
Central-I, Bombay .. Respondent

Mr. Sharan Jagtiani a/w Nirman Sharma, Ms. Apeksha Sharma i/b Kadam & Co. for the applicant
Mr. P.C. Chhotaray i/b Mr. Arvind Pinto for the respondent

CORAM : M.S. SANKLECHA &
G.S. KULKARNI, J.J.

DATED : 8th JULY, 2016.

P.C.

1. This Reference under Section 256(1) of the Income Tax Act, 1961 (the Act) seeks our opinion on the following substantial questions of law :-

> *(i) Whether the Tribunal having come to the conclusion that the principles of natural justice had not been complied with, ought to have cancelled /annulled the assessment and /or deleted the addition made by the Income-Tax Officer?*
>
> *(ii) Whether on the facts and circumstances of the case, the Tribunal went wrong in not deleting Rs.23 crores representing the alleged realization of premium?*
>
> *(iii) Whether on the facts and in the circumstances of the case, the Tribunal ought to have deleted the interest charged upon the applicant under Section 215 of the Act?*

> *(iv) Whether on the facts and in the circumstances of the case and in law, the applicant should be allowed to cross examine only 5 witnesses instead of all the witnesses whose testimony had been used / relied by the department against the assessee company?*

2. After the Reference was heard for some time, Mr. Jagtiani, learned Counsel appearing for the applicant assessee pointed out that subsequent to the order dated 9th February, 1989 of the Tribunal, which has led to this Reference, orders have been passed by the Commissioner of Income Tax (Appeal) and an appeal therefrom being Appeal No. No.5996 of 1993 is pending disposal before the Income Tax Appellate Tribunal.

3. In view of the above subsequent events after the order dated 9th February, 1989 of Tribunal, the parties have arrived at a consensus not to press the present Reference, subject to the following directions as agreed by the parties :-

(i) It is not necessary to answer the questions framed in the Reference for our opinion by the Tribunal.

(ii) The Tribunal is seized of an appeal by the assessee for the A.Y. 1984-85 being Appeal No. 5996 of 1993 (arising out of the order of the CIT(A) consequent to the order dated 9th February, 1989).

(iii) The Tribunal will decide the Appeal No.5996 of 1993 for A.Y. 1984-85 on its own merits without being influenced by the order of the Tribunal dated 9th February, 1989.

(iv) All contentions of the parties including those arising in this Reference are expressly kept open to be urged before the Tribunal.

(v) Taking into account the fact that the appeal pertain to the year 1993, the Tribunal will endavour to dispose of the appeal as expeditiously as possible and preferably within a period of six months from today.

4. This order has been passed on the basis of the statement made by the Counsel appearing for the parties, on instructions from their respective clients.

5. In view of the above, Reference is returned unanswered. Accordingly, the Reference is disposed of in the above terms.

(G.S. KULKARNI, J.) **(M.S. SANKLECHA, J.)**