IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.356 OF 1999

M/s. Ruby Coach Builders Pvt. Ltd. .. Applicant.
v/s.
The Commissioner of Income-tax,
Bombay City-V, Bombay. .. Respondent.

....

Mr. Atul Jasani, for the Applicant.

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CORAM: M.S.SANKLECHA, &
S.C. GUPTE, JJ.
DATE : 27 SEPTEMBER, 2016.

P.C:-

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

> "Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that part of the contribution to the gratuity fund which was in excess of the liability determined on an actuarial basis was not allowable as a deduction."

2. This Reference relates to the Assessment year 1983-84.

3. Mr. Jasani, learned Counsel appearing for the Applicant Assessee, states that in spite of his best efforts, he is unable to obtain instructions from the Applicant with regard to prosecuting this Reference further.

4. It therefore appears that the Applicant Assessee is not interested in pursuing the present Reference.

5. In that view, the Reference is returned un-answered. However, it is made clear that the questions raised herein for our opinion are left open for consideration in an appropriate case, if not already decided.

6. Reference disposed of in above terms. No order as to costs.

(S.C. GUPTE,J.) **(M.S.SANKLECHA,J.)**