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

INCOME TAX REFERENCE NO.424 OF 1999

M. Visvesvaraya Industrial Research and Development Centre .. Applicant

v/s.

The Commissioner of Income Tax, Bombay City IV, Bombay .. Respondent

Ms. Yasmeen Mohd. Sabir i/b Little & Co. for the applicant
None for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.

DATED : 29th NOVEMBER, 2016.

P.C.

1. By this Reference under Section 256(1) of the Income Tax Act, 1961 (the Act) the Income Tax Appellate Tribunal has referred the following substantial questions of law for our opinion :-

> *(i) Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding the amount appropriated towards the Sinking Funds was a part of the rent received by it and was in the nature of a revenue receipt ?*
>
> *(ii) Whether on the facts and in the circumstance of the case, the Tribunal ought to have held that the amount admittedly received by the assessee as a contribution to the Sinking Fund*

was in the nature of capital receipt?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the amount appropriated to the Sinking Fund is not deductible in computing the assessee's total income?

2. This Reference relates to Assessment Year 1983-84.

3. Ms. Yasmeen Sabir, learned Counsel appearing in support of the Reference states that the question nos. (ii) and (iii) are not being pressed by the applicant assessee. Therefore, no occasion to answer the same arises. Thus, returned unanswered.

4. So far as question (i) is concerned, Ms. Yasmeen Sabir, very fairly brings to our notice the order of this Court in Income Tax Reference No.78 of 1998 (M/s. M. Visvesvaraya Industrial Research and Development Centre Vs. Commissioner of Income Tax) decided on 25th October, 2012. The above Reference related to Assessment Years 1989-90 and 1990-91 in respect of the applicant assessee itself. An identical question raised therein as here was answered in favour of the Revenue and against the applicant assessee.

5. In the above view, the question (i) as formulated is answered in the affirmative i.e. in favour of the Revenue and against the applicant assessee.

6. The Reference is disposed of in the above terms.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**