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

INCOME TAX REFERENCE NO. 69 OF 1994
(Commissioner of Income Tax, Nagpur vs. M/s. Ballarpur Industries Ltd., New Delhi)
AND
INCOME TAX REFERENCE NO. 85 OF 1994
(Commissioner of Income Tax, Nagpur vs. M/s. Ballarpur Industries Ltd., New Delhi)

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

CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.
FEBRUARY 18, 2016.

Heard Shri S.N. Bhattad, learned counsel for the applicant – department and Shri Dewani, learned counsel for the respondent – assessee.

The following four questions have been referred to this Court by a common order. The References arise out of two appeals before the Income Tax Appellate Tribunal (I.T.A.T.).

"1. Whether, on the facts and in the circumstances of the case, the ITAT was justified in directing that deduction of Rs.3,32,665/- be allowed though the amount constituted withholding tax in Indonesia and Malaysia ?

2. Whether, on the facts and in the circumstances of the case, the ITAT was justified in directing that the receipts from foreign countries be taxed less the taxes withheld rather than credit being worked-out in accordance with the provisions of the Act, 1961 ?

3. Whether, on the facts and in the circumstances of the case, the ITAT was correct in sustaining the deletion of Rs.30.94 lakh by the CIT (A) on account of interest free loan *given to APRL ?*

4. Whether, on the facts and in the circumstances of the case, the ITAT was justified in confirming the impugned order passed by the CIT (A) in deleting the addition of Rs.92,000/- made by the A.O. on account of section 92 being attracted to the assessee's case ?"

The total tax effect has been worked out as under:

Question	Tax Effect
Question Nos. 1 & 2	Rs. 3,32,665/-
Question No. 3	Rs.30,94,000/-
Question No. 4	Rs. 92,000/-
Total	Rs.35,18,665/-
Tax @ 55%	Rs.19,35,266/-
Surcharge of 2.5% on tax	Rs. 48,382/-
Total Tax liability	Rs.19,83,648/-

The total tax liability, therefore, does not exceed Rs.20 lakh. Hence, following the C.B.D.T. Instruction No. 21 dated 10.12.2015, we return the reference unanswered. However, other matters between assessee and department are coming up after two weeks. Hence, papers should be preserved and made available for use of this Court along with Income Tax Reference No. 3 of 1995.

Income Tax References are disposed of accordingly.

JUDGE **JUDGE**

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