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

INCOME TAX REFERENCE NO.61 OF 1994

(The Commissioner of Income-tax (Vidarbha), 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*

=-=

Shri S.N. Bhattad, Advocate for the Applicant.
Shri K.P. Dewani, Advocate for the Non-Applicant.

CORAM : B.P. DHARMADHIKARI AND V.M. DESHPANDE, JJ.

DATE : 11th FEBRUARY, 2016.

Following two questions have been referred to this Court, which read thus :

"1. Whether on the facts and in the circumstances of the case, the ITAT was justified in cancelling the order passed by the CIT u/s 263(1) of the Act and in restoring the order of the Assessing Officer ?

2. Whether one unit of the assessee company generating steam and power can be considered to have made the sale to another unit of the same plant of the assessee and in turn generate profits for the purpose of section 80HH ?"

Perusal of the rectification order under section 154 read with section 263(1) of the Income-tax Act, 1961 passed on

15/04/1988 shows the total dis-allowance in dispute to be Rs.10,03,113/-. Therefore, even if reference is answered in favour of the department, resulted tax effect is Rs.5,76,790/-.

In this situation, applying Instruction No.21, dated 10/12/2015, we return the reference unanswered.

JUDGE **JUDGE**

**sandesh*