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

INCOME TAX REFERENCE NO.11 OF 1998

(The Commissioner of Income-tax, Vidarbha, Nagpur
vs.
The Vidarbha Co-operative Marketing Society Limited, Nagpur)

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

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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 questions have been referred to this Court arising out of four appeals decided by the I.T.A.T. for different assessment years.

"1. Whether on the facts and in the circumstances of the case, the Tribunal was correct in allowing the rebate in respect of sale of fertilizers to its members and non members and in directing the Income-tax Officer to delete the disallowance ?

2. Whether the Appellate Tribunal was correct in holding that the rebate in respect of sale cannot be treated as an application of profit and it has no connection in profit of the assessee, which could be treated as an application of profit and the decision so arrived at was in accordance with the provisions of law ?

The chart showing assessment year disputed disallowance and tax effect in each year respectively and total thereof is reproduced below :

Assessment year	Disallowance	Rate	Tax
1985-86	Rs.4,99,605/-	57.5%	Rs. 2,87,273/-
1986-87	Rs.6,21,607/-	57.5%	Rs. 3,57,425/-
1987-88	Rs.5,76,840/-	57.5%	Rs. 3,31,683/-
1988-89	Rs.8,18,910/-	52.5%	Rs. 4,29,930/-
Total			Rs.14,06,311/-

The chart shows that the tax effect in any assessment year does not exceed Rs.20.00 lakhs and its cumulative effect also is less than Rs.20.00 lakhs.

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

<u>JUDGE</u> **<u>JUDGE</u>**

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