**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

INCOME TAX APPEAL NO. 14 OF 2002

The Commissioner of Income Tax,
Aayakar Bhavan, Cantonment,
Near Holy Cross English School,
Aurangabad .. Appellant

Versus

Shri Tuljabhavani S.S.K. Ltd.,
through its Managing Director,
Naldurg, Taluka Naldurg,
District Osmanabad ..Respondent

Mr Alok Sharma, Standing Counsel for appellant
Respondent served

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVALE, JJ**

DATE : 9th February 2018

ORAL JUDGMENT (Per S.V. Gangapurwala, J.)

1. We have heard Mr Sharma, learned Counsel for appellant. Though the respondent is served, none appears. On last occasion also none appeared for the respondent. The following question of law arise :

> " Whether the Tribunal was right in deleting the additions made on account of Cane Development Fund, Area Development Fund, Small Savings, Hutment Fund, C.M. Fund, Mewad Relief Fund ?"

2. The Tribunal has decided these issues in favour of assessee in view of the judgment of the High Court in case of **CIT Vs. Chhatrapati Sahakari Sakhar Karkhana Ltd.**, reported in **(2000) 245 ITR 498.**

3. Mr Sharma, learned Counsel refers to the judgment of the Apex Court in a case of **Siddheshwar Sahakari Sakhar Karkhana Ltd., Vs. Commissioner of Income Tax, Kolhapur and ors.,** reported in **(2004) 12 SCC 1.**

4. The Apex Court in the aforesaid judgment has held that amounts collected by the society towards Cane Development Fund shall be treated as income of the assessee and no claim for deduction shall be entertained and decided by the Tribunal. As regards Area Development Fund, the matters were remitted to the Tribunal. The Tribunal has to consider the case put forth by the assessee of utilising the said amount for the purpose for which it was collected.

5. Considering the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd., Vs. Commissioner of Income Tax (supra), it would be necessary to remit the matter back to the Tribunal for considering the aspects in respect of Cane Development Fund, Area Development Fund, Small Savings, Hutment Fund, C.M. Fund and Mewad Relief Fund, afresh in light of the judgment of Apex Court in case of Siddheshwar S.S.K. Ltd., Vs. Commissioner of Income Tax (Supra).

6. The impugned judgment is set aside. The matter is remitted to the Tribunal for deciding afresh as per observations made above.

7. Appeal is accordingly partly allowed. No costs.

(A.M. DHAVALE, J.) **(S.V. GANGAPURWALA, J.)**

vvr