CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION No. 170/00055/2017

TODAY, THIS THE 08th DAY OF NOVEMBER, 2017

CORAM :

HON'BLE DR. K.B. SURESH ... MEMBER (J)
HON'BLE SHRI PRASANNA KUMAR PRADHAN ... MEMBER (A)

SRI. U.A. CHANDRAMOULI,
S/o. Late U Aswathanarayanaiah,
Aged 65 years,
R/at No. 32, 1st Cross,
20th Main, BRM Lay Out I Stage,
Bengaluru - 560 068

… Applicant

(By Advocate Shri Aravind V. Chavan)

vs.

1. Chairman,
   Central Board of Direct Taxes,
   North Block,
   New Delhi – 110 001

2. Chairman,
   Union Public Service Commission,
   Dholpur House,
   Shahjahan Road,
   New Delhi – 110 069

3. Revenue Secretary,
   Government of India,
   Ministry of Finance,
   Department of Revenue,
   North Block,
   New Delhi - 110 001

4. Inquiry Officer &
   Commissioner of Income Tax (DRP),
   C.R. Buildings,
   Queens Road,
   Bangalore : 560 001
   Represented by Shri Om Prakash Yadav.

… Respondents.

(By Advocate : Shri M.V. Rao, Sr. Central Govt. Panel Counsel)

O R D E R (ORAL)

Hon'ble Dr. K.B. Suresh, Judicial Member

O.A. Nos. 55/2017 (U.A. Chandramouli's case) and 56/2017 (Dhirendra Kumar Jha's case) have been taken together as it pertains to same issue. O.A. No. 55/2017 has taken as the leading case.

THE LEGAL MATRIX:

Hon'ble P.B. Gajendragadkar, the former Chief Justice of India said :

> **"As soon as the democratic state embarks upon the adventure of achieving the ideals of a welfare state, it inevitably turns to law as its greatest ally in the crusade. The function of the democratic state and its role assume wider proportions and cover a much larger horizon and, in assisting the state to achieve these ever-expanding objectives, the function and the role of law correspondingly enlarge and cover a wider horizon. We reach a stage in the progress of the democratic way of life where law ceases to be passive just as democracy ceases to be passive and the purpose of law like that of democracy becomes dynamic and that naturally raises the eternal question about the adjustment of the claims of individual liberty and freedom on the one hand, and the claims of social good on the other. It is this duel which a dynamic democracy has to face and it is in a harmonious and rational settlement of this duel that law has to assist democracy."**

(P.B. Gajendragadkar, Law, Liberty and Social Justice, Asia Publishing House (1965), Page No. 64)

2. This matter relates to judicial independence and quasi judicial adjudication. Since the matter has been put up before us, we had held a random search of acts and rules to find out the extent of quasi judicial functioning available under various acts and rules. We found that about 30 to 40% of litigation in the country is handled by quasi judicial

authorities under one statute or other. **Therefore, the position of a quasi judicial officer is of nodal nature in the justice delivery system. If the department under which he is working is in a position to exert any sort of control over his working it will have an impact on his mental make up and impartiality. The quasi judicial officer is enjoined and called upon to and pass judgment in respect of the matters in which his department is deeply interested. But yet he is called upon to deliver judgments passed by depending on his conscious knowledge of law and based on his ability and without any bias. If any control is to be exercised by superior officers of the department over the quasi judicial officer, it is so perverse that it will defeat the whole structure of quasi judicial determination and in such a situation a quasi judicial determination becomes an adjunct to a department decision and therefore, detrimental to public interest.**

3. ***The independence of judiciary requires protection to judges for the decision taken by him, so it may probably be construed that a judgment of a judicial officer whether if he be right or not is not the issue but the rightness and wrongness of a judicial order has to be contested only through the hierarchy provided throughout the judicial system and not by collateral means. Such a rule if, providing for collateral control under whatever guise will reduce and diminish the independence of judiciary and render quasi judicial activity to the level of being only an exercise in futility by already taken departmental decision which he will be called upon to blindly support and this will defeat the system of quasi judicial determination.***

4. We have carefully examined the articles of charges against the

applicant**. The articles of charge is absolutely in the realm of judicial determination. If the department is aggrieved by judicial determination the only way available to them is to approach the appellate or revisional authority as the case may be. They cannot, definitely hold a disciplinary enquiry against the applicant for a decision he had taken in the course of his working as a quasi judicial officer for a factor within the scope of such judicial determination.** Since requirement of independence of quasi judicial forums over shadow smaller lacunae like this in greater public interest. **The respondents would submit that the assessing officer should be guided by superior officer, but this averment create dangerous precedents and tantamount to a Magistrate being guided by a police officer in the discharge of his duty and that it can only be hoped that the respondents said so without understanding the gravity of it, it is important that process and procedures of a quasi judicial authority are also protected.**

5. **The quasi judicial authorities are created within the department itself to ensure that a process of determination which is balanced and unbiased is made available. The process and procedures of a judicial officer are also made and organised to ensure the independence of a judicial officer and unless this cardinal factum is maintained the quasi judicial authority lose its relevance and reverence in the public mind. Therefore, in the larger aspect it is in greater judicial importance to work out a method by which independence and integrity are matched. The volume of litigation in the country as handled by quasi judicial authorities points out the need to afford them also the same protection given to Judges; in greater and larger public interest. This exercise of**

impartiality is to ensure justice to the assessee also.

6. The Hon'ble Supreme Court in ***UNION OF INDIA & OTHERS VS. K.K.DHAWAN*** (1993) 2 SCC 56, in para 28 & 29 had come to the following conclusion on this aspect;

> "28. Certainly, therefore, the officer who exercises judicial or quasi judicial powers acts negligently or recklessly or in order to confer undue favour on a person he is not acting as a Judge, Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessment may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action and it can be taken in the following cases as provided in the extreme case of Dhawan.:
>
> (i) ***Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;***
>
> ***(ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;***
>
> ***(iii) if he has acted in a manner which is unbecoming of a Government servant;***

(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(v) if he had acted in order to unduly favour a party;

(vi) if he had been actuated by corrupt motive, however small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great"

"29. The instances above catalogued are not exhaustive. However, we may add that for a mere technical violation or merely because the order is wrong and the action not falling under the above enumerated instances, disciplinary action is not warranted. Here, we may utter a word of caution. Each case will depend upon the facts and no absolute rule can be postulated."

And, therefore, the respondents would submit that they had a right to initiate disciplinary action against the applicant even though he was a quasi judicial officer. But we heard the respondent specifically and had examined the pleadings only to find that these 6 factors are not involved.

7. We were taken through the decision of the Hon'ble Supreme Court in ***V.D.TRIVEDI Vs. UNION OF INDIA*** 1993 (2) SCC 55, ***UNION OF INDIA Vs. R.K.DESAI*** (1993) 2 SCC 49 and ***UNION OF INDIA VS. A.N.SAXENA*** 1(992) 3 SCC 124. The respondents submitted that it is

not the degree of infraction which is material and it should be the decision of the authorities. But then this appears to be a case of no evidence at all in view of the Hon'ble High Court judgments acquitting applicants and determining the ITAs in a well reasoned order. Therefore at best this is only a tangential attack against the two Hon'ble High Court judgments in the realm of fact and law also. This is true even if we ignore the question of quasi judicial functioning and judicial independence. The Hon'ble High Court of Karnataka had found in the ITA's that the basic issue is to be held against the Revenue. It is better not to say anything about the processes in the trial court. The Hon'ble High Court had clearly expressed it.

> ***"When we talk of negligence in a quasi judicial adjudication, it is not negligence perceived as carelessness or inadvertence or omission but as culpable negligence.*** This is how this court in ***STATE OF PUNJAB AND OTHERS Vs. RAM SINGH*** Ex-Constable (1992) 4 SCC 54 interpreted 'misconduct' not coming within the purview of mere error in judgment, carelessness or negligence in performance of the duty. In the case of K.K.Dhawan (1993) 2 SCC 56, the allegation was of conferring undue favour upon the assessees. It was not a case of negligence as such. In Upendra Singh's case (1994) 3 SCC 357, the charge was that he gave illegal and improper directions to the assessing officer in order to unduly favour the assessee. Case of K.S.Swaminathan (1996) 11 SCC 498, was not where the respondent was acting in any quasi judicial capacity. **This Court said that at the stage of framing of the charge the statement of facts and the charge-sheet supplied are**

required to be looked into by the Court to see whether they support the charge of the alleged misconduct. In M.S.Bindra's case (1998) 7 SCC 310 where the appellant was compulsorily retired this court said that **judicial scrutiny of an order imposing premature compulsory retirement is permissible if the order is arbitrary or mala fide or based on no evidence.** Again in the case of Madan Mohan Choudhary (1999) 3 SCC 396, which was also a case of compulsory retirement this court said that there should exist material on record to reasonably form an opinion that compulsory retirement of the officer was in public interest. In K.N.Rmamaurthy's case (1997) 7 SCC 101, it was certainly a case of culpable negligence. One of the charges was that the officer had failed to safeguard Government revenue. In Hindustan /steel Ltd.'s case (AIR 1970 SC 253), it was said that the penalty will not also be imposed merely because it is lawful so to do. In the present case, it is not that the appellant did not impose penalty because of any negligence on his part but he said it was only a case of releasing a document. We are, however, of the view that in a case like this, the relevance of this document to the revenue had to be established. But then, there is nothing wrong or improper on the part of the applicant to form an opinion that retention of document was not mandatory.

Initiation of disciplinary proceedings against an officer cannot take place on an information which is vague or indefinite. Suspicion has no role to play in such matter. There must exist reasonable basis for the disciplinary authority to proceed against the delinquent officer. Merely

because a document was returned after placing a certified copy of the same as law permits no infraction can be found. The both High Court judgments has closed the chapter for the respondents especially since no appeal was filed. But in the reasonableness of approach also will indicate that nothing untoward is present.

If, every error of law or perceived error were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi judicial officers like the applicant. Since in sum and substance misconduct is sought to be inferred by the appellant having committed an error of law, the charge-sheet on the face of it does not proceed on any legal premise thus rendering it liable to be quashed. ***In other words, to maintain any charge-sheet against a quasi judicial authority something more has to be alleged than a mere mistake of law, e.g., in the nature of some extraneous consideration influencing the quasi judicial order. Since nothing of the sort is alleged herein the impugned charge-sheet is rendered illegal. The charge-sheet, if sustained, will thus impinge upon the confidence and independent functioning of a quasi judicial authority. The entire system of administrative adjudication where under quasi judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings. Besides in this case the Hon'ble High Court had found no infraction whatsoever.***

Considering the whole aspect of the matter, we are of the view that it was not a case for initiation of any disciplinary proceedings against the applicant. Charge of misconduct against him was not proper. It has to be quashed" as otherwise it will be an abuse of powers.

The counsel for the applicant took us through the judgment of Hon'ble Supreme Court in ***P.C.JOSHI VS. STATE OF U.P. AND OTHERS*** dated 08.08.2001, which was available in the internet at Https://JUDIS.NIC.IN. After examining the crux of the matter the Hon'ble Supreme Court held as under:

> " The test to be adopted in such cases is as stated by this Court in the cases of Union of India & Ors., Vs. A.N.Saxena, 1992 (3) SCC 124 and Union of India & Anr., Vs. K.K.Dhawan, 1993 (2) SCC 56. In K.K.Dhawan case (supra), this Court indicated the basis upon which a disciplinary action can be initiated in respect of a judicial or a quasi-judicial action as follows:
>
> Where the Officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;
>
> (i) ***Where the judicial officer has conducted in a manner as would reflect on his reputation or integrity or good faith or devotion to duty;***
>
> (ii) ***That there is prima facie material to show recklessness or misconduct in the discharge of his duty;***
>
> (iii) ***That if he has acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;***
>
> (iv) ***That if he had acted in order to unduly favour a party;***
>
> (v) ***That if he had been actuated by corrupt motive.***
>
> Dealing with a matter of similar nature in Ishwar Chand Jain Vs. High Court of Punjab & Haryana & Anr., 1968 Supp. (1) SCR 396, the following observations were made by this Court:

> ***"....While exercising control over the subordinate judiciary under the Constitution, the High Court is under a constitutional obligation to guide and protect judicial officers. An honest, strict judicial officer is likely to have adversaries. If complaints are entertained on trifling matters relating to judicial officers which may have been upheld by the High Court on the judicial side, and if the judicial officers are under constant threat of complaints and enquiry on trifling matters, and if the High Court encourages anonymous complaints, no judicial officer would feel secure, and it would be difficult for him to discharge his duties in an honest and independent manner. An independent and honest judiciary is a sine qua non for the Rule of law. It is imperative that the High Court should take steps to protect its honest judicial officers by ignoring ill-conceived or motivated complaints made by unscrupulous lawyers and litigants. [p.409]"***

8. In ***A.K.KRAIPAK VS. UNION OF INDIA*** reported in AIR 1970 SC 150 the Hon'ble Supreme Court had held:

> ***"The dividing line between an administrative power and a quasi-judicial power is quite thin and is gradually being obliterated. For determining whether a power or a quasi-judicial power one has to look to the nature of the power conferred, the persons or person on whom it is conferred, the framework of the law conferring that power, the consequences ensuring from exercise of that power and the manner in which that power is expected to be exercised. Under the Constitution of India, the rule of law pervades over the entire field of administration. Every organ of the State under the Constitution is regulated and controlled by the rule of law. In a Welfare State like ours it is inevitable that the jurisdiction of the administrative bodies is increasing at a rapid rate. The concept of the rule of law would lose its vitality if the instrument elites of the State are not charged with the duty of discharging their functions in a fair and just manner. The requirements of acting judicially in essence is nothing but a requirement to act justly and fairly and not arbitrarily and capriciously. The procedures which are considered inherent in the exercise of a judicial power are merely those which***

> ***facilitate, if not ensure a just and fair decision. In recent years the concept of quasi-judicial power has been undergoing a radical change. What was considered as an administrative power some years back is now being considered as quasi-judicial power. With the increase of the power of the administrative bodies it has become necessary to provide guidelines for the just exercise of their power. To prevent the abuse of that power and to see that it does not become a new depositism Courts are gradually evolving the principles to be observed while exercising such powers. In matters like these public good is not advanced by a rigid adherence to precedent. New problems call for new solution. It is neither possible nor desirable to fix the limits of a quasi judicial power".***

9. In ***ZUNJARRAO BHIKAJI NAGARKAR Vs. UNION OF INDIA***, AIR 1999 SC 2881, The Hon'ble Supreme Court had held:

> ***"If every error of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi-judicial officers, like the appellant. Since in sum and substance misconduct is sought to be inferred by the appellant having committed an error of law, the charge-sheet on the face of it does not proceed on any legal premise rendering it liable to be quashed. In other words, to maintain any charge-sheet against a quasi-judicial authority something more has to be alleged than a mere mistake of law, e.g. in the nature of some extraneous consideration influencing the quasi-judicial order. Since nothing of the sort is alleged herein the impugned charge-sheet is rendered illegal. The charge-sheet, if sustained, will thus impinge upon the confidence and independent functioning of a quasi judicial authority. The entire system of administrative adjudication where under quasi-judicial powers are conferred on administrative authorities would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings".***

10. Therefore in the light of these, we examined, as to what had been done by the applicant. Now the elementary charge against him is that he

had released a document, which is a fax sheet to the assessee which showed a payment of about 10.2 crores from him and apparent expense of the same by the builder, apparently through the Bank. How it can be taken to cast aspersions on the applicant can rest only in imagination.

11. Hon'ble Apex Court in the case of Union of India and Others Vs. K.K.Dhawan vide order dated 27.01.1993 has laid down following six conditions to initiate disciplinary proceedings against the authority while discharging quasi-judicial functions. Therefore with the help of both the counsel we have examined these things

(i) Where the Officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;

But then the document had to be returned by operation of law. The time was extended once and only after taking a certified copy was it returned.

(ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;

Such a change had already become merged in the two decisions of the Hon'ble High Court of Karnataka.

(iii) If he has acted in a manner which is unbecoming of a government servant;

No reasonable soul can raise this issue after the two judgments. But even otherwise under which provision of law criminal culpability is found cannot be understood.

(iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

A mere reading of the impugned order cannot sustain such parameters. But in all these cases when the Income Tax Appellate Authority as well as the Hon'ble High Court had held in favour of the assessment and the approval by the applicant, no such charge can be laid.

(v) If he had acted in order to unduly favour a party;

This element will not lie in the applicant's case, as the charge is not for wrong assessment but for returning a document.

(vi) If he had been actuated by corrupt motive however, small the bribe may be.

No one has a case that the applicant had accepted any bribe as only an administrative failure is seen attributed to him. The Income Tax Appellate Authority had upheld his assessment . Therefore, none of these paras as stipulated in 1993 AIR 478 will lie against the applicant as also document in question had to be returned, under law, in any case.

12. Neither the Tribunal nor the High Court need not examine whether the charges as laid is correct or not. ***This impermissibility of tangentially challenging a High Court judgment, the incorrectness of trying to set aside an order of the Income Tax Appellate Tribunal and Hon'ble High Court, based on Apex Court rulings and the diminishment of judicial independence which moves the issue of charge sheet as an abuse of power and reflective of active mala fide is the crux.***

13. The learned counsel for the respondents also rely on ***TRANSPORT COMMISSIONER MADRAS VS. A.RADHA KRISHNA MURTHY*** reported in (1995) 1 SCC 332 wherein the **Hon'ble Apex Court had held that the correctness or not of the charges is out side the scope of judicial review and only on the basis of no evidence that brings in the jurisdiction of the Tribunal or the High Court. The learned counsel for the applicant submits that there must be some prima facie case to meet that pretenable for the very simple reason that the charge is based on a wrong return of a document. What if the document is returned is answered negatively and vaguely.**

14. The learned counsel for the applicant relies on ***P.V.MAHADEVAN Vs. M.D.TAMIL NADU HOUSING BOARD, CHENNAI*** where the Hon'ble Apex Court had held that **" there is a duty to avoid anyway the procedure for a delay of 10 years. The Hon'ble Apex court had held that this kind of impropriety should be avoided but also in public interest and also in the interest of inspiring confidence in the minds of government employees".**

15. The Hon'ble Apex Court there upon held that the applicant will be entitled to all the retiral benefits and it should be paid within a period of 3 months. In the case of ***STATE OF MADHYA PRADESH VS. BANSILAL SINGH AND ANOTHER*** Hon'ble Apex Court had **held that the delay of 12 years in the disciplinary proceedings were unfair and therefore should not permit the departmental enquiry to proceed.**

16. The learned counsel relies on the decision of the Hon'ble Apex Court in ***STATE OF MADHYA PRADESH VS. RADHAKRISHNAN*** 1998 (4) SCC 154 and the Hon'ble Apex Court had held against the generalisation of charges without attributing any specific positive input against the delinquent employee. ***The learned counsel for the applicant would submit that here also there is no specific input and whatever inputs there is, it has been set aside by the Hon'ble High Court judgments.*** Therefore the Hon'ble Apex Court had held that the Tribunal was justified in quashing the Charge Memo dated 26.07.1995 and 01.06.1996. **The learned counsel relies on the *COMMISSIONER OF INCOME TAX VS. GREEN WORLD CORPORATION* wherein the Hon'ble Apex Court had held that "the Board is not a competent authority to give direction regarding the exercise of any judicial powers by its subordinates.**

17. ***It is possible for any citizen of India whether he is a government servant or not to feel aggrieved of the Hon'ble High Court's order but since the Hon'ble High Court passed an order in favour of a party or against a party, it is not pertinent or proximate on the part of the person so aggrieved that to feel fit that to postulate consequential and tangential victims.***

The factual derivations :

18. The best judgment assessment based on Income Tax Laws of the land and the implications and consequences is the issue as stated by the respondents. There are two cases, this one and the connected one, which are the consequences of each other. That the first case of Shri Chandramouli seems to be the leading case as it canvasses the real issues involved as in the case of Shri Jha, the consequences seems to be that he was apparently a silent spectator when one document in question which could not have been retained by the concerned official beyond a certain period was retained by him on permission from the superior authority and after the permission expired, after keeping an appropriate certified zerox copy Shri Chandramouli apparently returned the document which is nothing other than a fax message for which clarification has been sought from the concerned assessee and after the usage is over and the permissible time lapsed, he had taken permission orally from Shri Jha to return the document . This according to the respondents establishes the complicity between the concerned and the action in concert. ***But then, when the Hon'ble High Court , in two very well reasoned judgements set aside very foundation of this case, how can there be a tangential and corollary attack against these judgements by initiating action against the applicants in the main issue.***

19. Since we have decided to take Shri Chandramouli's case as the leading case as the real issues are mentioned there only and only a corollary issue raised in the case of Jha, the basic focus case would be the case of Shri Chandrmouli.

20. The matter relates to a disciplinary enquiry contemplated utilising the statements made through the process of code of criminal procedure by certain witnesses and their usage. Apparently on 19.01.2017 the Presenting Officer in the matter submitted a letter enclosing the certified copies of the documents listed in Annexure – III to the Articles of charges and certified copies of the statements of sixteen witnesses recorded in the Court of XLVII Additional City Civil and Sessions Judge and Special Judge for CBI Cases, Bangalore, in the Special C.C. No. 155/2010. Apparently, the presenting officer also submitted a copy of the order of the XLVII Additional City Civil and Sessions Judge & Special Judge for CBI Cases, Bangalore, in the Special CC No. 155/2010 dated 30.07.2016. Apparently, the Presenting Officer wanted to rely on all the documentations and also the statements recorded by the CBI Court in respect of the witnesses listed in Annexure III of the Articles of charges. Apparently, these documents are certified by the Dy, SP, CBI, ACB, Bangalore. The enquiry officer held that that the disciplinary proceedings are different from the criminal proceedings and an independent decision would be arrived at by the Enquiry Officer. **Therefore, apparently, since the Enquiry Officer was not in agreement with the submissions of the Presenting Officer that the finding arrived at by the Special Judge for CBI should be taken into consideration while deciding the charges framed. He held further that in the present case, the charge is with regard to violation of the procedure in regard to the release of documents impounded**

under Section 133-A of the I.T. Act, the oral statements on which reliance has been placed by the Presenting Officer, may not be relevant and thereafter, it was adjourned.

21. The assesse on the other hand , aggrieved by the assessment, had challenged it before the Commissioner of Income Tax and thereafter, the matter came before the ITAT and following which in ITA No. 1078/2006, which was heard along with ITA No. 1080/2006, ITA No. 1077/2006, ITA No. 1091/2008, ITA No. 1092/2008, ITA No. 1090/2008, ITA No. 386/2010, ITA No. 387/2010 et. Hon'ble High Court of Karnataka vide an order dated 18.03.2013 disposed of this matter. It is pertinent to note that the Hon'ble High Court has covered all the issues which would normally arise in the matter.

Therefore, the question of fact :

22. The question of fact is available from the judgement of Hon'ble High Court of Karnataka. Paragraphs 2 to 32 of the said judgement are extracted below as it covers entire gamut of the issue.

> "2. The Assessee M/s.Children's Education Society is a society registered under the Karnataka Societies Registration Act, 1960. The society was formed on 29.9.1974 with the object of promoting, establishing and maintaining all types of educational institutions. The assesse society over the years has promoted several educational institutions from time to time. It was running as many as 23 educational institutions upto assessment years 1999-2000 and 2000-2001. Thereafter, as many as 25 and 28 educational institutions are being run during the previous years relevant to assessment years 2001-2002 and 2002-2003 respectively. The details of the institutions run by the assesse are as under:

Sl. No.	Name of the Institution	Year in which started	Authority form whom the educational institution is approved
1.	The Oxford Nursery School	1974-75	DDPI, Govt. of Karnataka
2.	The Oxford Kannada Higher Primary School	1975-76	DDPI, Govt. of Karnataka
3.	The Oxford English Nursery/Primary School	1975-76	DPI, Govt. of Karnataka

4.	The Oxford English High School	1982-83	DPI, Govt. of Karnataka
5.	The Oxford Kannada High School	1982-83	DDPI, Govt. of Karnataka
6.	The Oxford Teachers Training Institute	1985-86	Govt. of Karnataka Commissioner of Public Instructions
7.	The Oxford Nursery Teachers Training Institute	1985-86	Govt. of Karnataka Commissioner of Public Instructions
8.	The Oxford Polytechnic	1986-87	Govt. of Karnataka Department of Technical Education
9.	The Oxford Senior Secondary 1990-91	1990-91	CBSE, Delhi
10	The Oxford Evening Polytechnic	1991-92	Govt. of Karnataka Department of Technical Education
11	The Oxford Institute of Pharmacy	1992-93	Govt. of Karnataka, Pharmacy, Council of India
12	The Oxford School of Pharmacy	1992-93	Bangalore University Govt. of Karnataka
13	The Oxford School of Nursing	1992-93	Kar. Nur. Council, Govt. of Karnataka
14	The Oxford College of Nursing	1992-93	Bangalore University Govt. of Karnataka
15	The Oxford Dental College	1992-93	Bangalore University Govt. of Karnataka
16	The Oxford College of Science	1994-95	Bangalore University Govt. of Karnataka
17	The Oxford College of Business Management	1994-95	Bangalore University Govt. of Karnataka
18.	The Oxford College of Hotel Managament	1994-95	Bangalore University Govt. of Karnataka
19.	The Oxford College of Business Management, MBA	1995-96	Bangalore University, Govt. of Karnataka
20.	The Oxford College of Science, MCA	1995-96	Bangalore University Govt. of Karnataka
21	The Oxford College of Physiotherapy	1995-96	Bangalore University Govt. of Karnataka
22	The Oxford College of Science, MSC	1992-99	Bangalore University Govt. of Karnataka
23	The Oxfor English School (ICSE)	1998-99	ICSE, New Delhi
24	The Oxford College of Engineering	2001-01	Bangalore University Govt. of Karnataka
25	The Oxford College of Science, BCA	2000-01	Bangalore University Govt. of Karnataka
26	The Oxford College of Engineering MBA Progm.	2001-02	Govt. of Karnataka V.T.U. Belgaum.
27	The Oxford College of Engineering MCA Progm.	2001-01	Govt. of Karnataka V.T.U. Belgaum.
28	The Oxford Pre-University College	2001-02	Govt. of Karnataka.

3. The assesse filed returns of income claiming status of 'artificial juridical person'. However, the assesse was assessed in the status of 'association of persons'. The assessing officer framed assessment order. However, he denied exemption under Section 10(23C) (iii) (ad) for the years from 2000-2001 to 2005-2006. He also disallowed subsidy for the assessment year 2001-2002. He disallowed building fund for the year 2001-2002 to 2006-2007. He also disallowed interest for the period from 2002-2003 to 2003-2006. Even expenditure on account of lease was disallowed for the assessment year 2003-2004 to 2005-2006. Aggrieved by the said disallowance, the assesse preferred appeals to the Commissioner of Income Tax (Appeals). Infact, the Commissioner of Income-tax (Appeals) had granted relief to the assesse for the assessment year 1999-2000 First year in which Section 10(23C) (iii)(ad) came into force. Aggrieved by the said order, the revenue preferred appeal to the Tribunal which is ITA No.1105/2002. That appeal alongwith appeal filed by the assessee against the aforesaid impugned order were clubbed together. The Tribunal dismissed the appeal filed by the revenue and allowed all the appeals filed by the assessee in-toto granting the relief to the assessee. Aggrieved by the said order of the Tribunal, the revenue is in appeal.

4. After going through the substantial questions of law raised and framed at the time of Admission, we are of the view, it requires to be recasted. The learned counsel appearing for the parties are also of the same view. Accordingly, the following substantial questions of law are framed:

1. Whether the Tribunal is correct in law in holding that the respondent – assessee is to be assessed in the status of Artificial Juridical Person instead of status of Association of Persons adopted by the Assessing Officer and confirmed by the Appellate Commissioner?

2. Whether, on facts of the case, the Tribunal is correct in holding the exemption in terms of provisions of Section 10(23C)(iii)(ad) of Income-Tax Act 1961 is available to the respondent – assessee as annual receipts of each of the Institutions of the respondent – society is less than the prescribed limit under the said provisions?

3. Whether the Tribunal is correct in holding that the exemption in terms of Section 10(23C)(iii)(ad) of Income Tax Act, 1961 is allowable?

4. Whether, on the facts of the case the Tribunal is correct in deleting the addition made in respect of grant of subsidy and advancement of unsecured loans to persons connected with the Chairman of the Society under various agreements?

5. Whether on the facts, the Tribunal is correct in deleting the interest amount in respect of interest-free advances made to the relatives i.e., son and daughter of the Chairman and the amounts in turn, are transferred to a firm?

6. Whether on the facts, the Tribunal is correct in holding that the funds collected towards construction of building as donation is allowable and cannot be treated as income of assessee under the provisions of Income Tax Act, 1961?

7. Whether the Tribunal was correct in holding that the expenditure of Rs.2.63 crores on account of write of lease hold properties is an allowable deduction in the assessee's case under the provisions of I.T.Act?

8. Whether on the facts of the case the donation made by the respondent – Society qualify for deduction?

9. Whether the Tribunal is correct in not appreciating that the assessee was independently claiming Section 10(23C)(iii)(ad) exemption in respect of the entire trust as well as in respect of independent institutions when the management and the control of the same vested with its Chairman, who was running the same as a business concerns i.e. for profit?

10. Whether the Tribunal was correct in holding that Building Fund of Rs.28,04,505/-, Infrastructure Development Fund Rs.16,39,73,678/- should be treated as the corpus fund of the assessee even though the donors had not been identified and was contrary to Section 10(23C)(iii)(ad) of the I.T Act?

FIRST SUBSTANTIAL QUESTION OF LAW

5. The work 'person' is defined under Section 2(31) of the Act. It reads as under:

" 2(31) " person" includes:

(i) *an individual,*

(ii) *a Hindu Undivided family*

(iii) *a company*

(iv) *a firm,*

(v) *an association of persons or a body of individuals, whether incorporated or not,*

(vi) *a local authority, and*

(vii) *every artificial juridical person, not falling within any of the preceding sub-clauses.*

Explanation:- For the purpose of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains."

6. A reading of the aforesaid definition makes it clear that a 'person' includes an association of persons or body of individuals whether incorporated or not and also every artificial juridical person, not falling within any of the preceding sub-clause. Once a body/society is incorporated under a statute, it becomes juridical person.

7. Under the terms of the Society Registration Act, 1860, any seven or more persons associated for any literary, scientific or charitable purpose, may be subscribing their names, to a memorandum of association and filing the same with the Registrar of Societies may form themselves into a Society under the Act.

8. Once the society is formed, it would become a juridical person as opposed to natural persons. Business of the society is carried on in the name of the society and not in the name of the persons who form the said society. The properties of the society would vest in the name of the society managed by the governing body. The society so registered, may sue or be sued in the name of the president, chairman or principal secretary or the trustees as shall be determined by the rules and regulations of the society and in default of such determination, in the name of such persons as shall

be appointed by the governing body for the occasion. Therefore, the society would be an artificial juridical person other than the association of persons or body of individuals. Therefore the society while filing return is described the status as AJP. The Assessing Authority could not accept the said status and treated the assessee as AOP and has passed the order. Now the Tribunal has held that the assessee is to be treated AJP. When the return is filed as AJP, the question of treating the assessee as AOP would not arise. Therefore the substantial question of law No.1 is answered in favour of the assessee and against the revenue.

SECOND AND THIRD SUBSTANTIAL QUESTIONS OF LAW

9. Shri Indrakumar, the learned Senior Counsel appearing for the Revenue contended that Clauses (iii) (ab), (jjj)(ad) and Clause (vi) were introduced by the Finance (NO.2) Act 1998 with effect from 1.4.1999, as a substitute for Section 10(22) which was omitted by the said Act with effect from 1.4.1999. The reason being the blanket exemption in respect of the educational and medical institutions which is being misused, was proposed to be withdrawn, compelling such Institutions to come under a discipline. However, safeguards are being provided to ensure that the institutions genuinely serving the social cause, in either filed no not lose existing benefit and thus amended provisions have to be construed strictly. So construed. Though even after the said amendment, an assessee is entitled to the benefit of Section 10, its application is now restricted to income received by the assessee on behalf of other educational institution existing solely for education purposes and not for the purposes of profit. If aggregate annual receipts of such educational institutions do not exceed the amount of annual receipts as may be prescribed. The work 'aggregate annual receipts' means annual receipts of such education institutions run by the assessee. In the event of an assessee running more than one education institution and if the annual receipts exceed more than a crore, then he has to seek approval under Clause (vi) which is made applicable to educational institutions those not falling under Sub-clause (iii) (ab) of Sub-clause (iii) (ad) and therefore, he submits, the order passed by the Tribunal holding aggregate annual receipts means aggregate of each educational institution, is contrary to the expressed provision contained in the statute. As such the said binding requires to be interfered with.

10. Per contra, Shri.Shankar, the learned counsel appearing for the assessee submitted, as sub-section (22) of Section 10 stood before deletion, any income of a University or other educational institution existing solely for education purposes and not for purposes of profit, was excluded from the total income of the assessee. However, that provision is now deleted and in its place sub-clauses (iii)(ab), (iii)(ad) and even Clause (vi) are introduced. Now the wording used in 23(C), namely, any income received by any person on behalf of other education institutions means the income from each of such educational institution run by the assessee and if aggregate annual receipts of such education institution do not exceed the amount of annual receipts prescribed, namely, Rs.1 crore, the assessee is entitled to the benefit of Section 10. The aggregate annual receipts does not mean that the annual receipts of all educational institutions have to be clubbed. It only means it is an aggregate of annual receipts issued by each educational institution and therefore, he submits that the interpretation placed by the Tribunal is consistent with the aforesaid statutory provision and therefore, no case for interference is made out.

11. In order to appreciate the aforesaid contentions, it is necessary to have a look at the statutory provisions. Chapter III deals with incomes which do not form part of total income. Section 10 deals with income not included in total income, which reals as under:

"Section 10 – In computing the total income of a perevious year of any person, any income falling within any of the following clause shall not be included."

12. Sub-section (22) before deletion read as under:

"Any income of a University or other educational institution, existing solely for educational purposes and not for purposes of profit."

13. By deleting the aforesaid provision, the provision which are no substituted are sub – Section 23-C of Section 10. Sub-section 23-C reads as under:

"Any income received by any person on behalf of

(iii)(a) the National Foundation for Communal Harmony; or

(iii)(ab) any University or other education institution existing solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government: or

(iii(ac) any hospital or other institution for the reception and treatment of persons suffering from illness or metal defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit and which is wholly or substantially financed by the Government; or

(iii)(ad) any University or other education institution existing solely for educational purposes and not for purposes of profit, if the aggregate annual receipts of such university or education institution do not exceed the amount of annual receipts as may be prescribed; or

(vi) any university or other education institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (iii)(ab) or sub-clause (iii)(ad) and which may be approved by the prescribed authority"

14. Section 10 groups in one place various incomes which are exempted from tax, which includes certain types of income from the ambit of total income, as defined under the Act. The incomes enumerated in the Section are not only excluded from the taxable income of the assessee, but also from his total income. They are not to be taken into consideration for the purpose of determining either the taxable income or rate of tax. If any income falling within any of these clauses of the Section is in reality not the income of the assessee, but is deemed to be his income under any provision of this Act, the exemption would still be available. A receipt may not be income, at all, within the proper concept of the term and yet may come within the expressed exemption in this Section due to the over anxiety of the Taxmann to make the non-taxable clear from possibility of doubt. In other words from the fact that such a receipt is exempted under the Section which must not be assumed that, but for the exemption, it would necessarily be taxable. The onus of showing that a particular item of income falls within any clause of the Section, is on the assessee. The object with which Sub-section 22 of Section 10 was deleted is found in the Budget Speech of the Minister of Finance for 1998-99, where it is stated as under:

"Moderate rates and large concessions do not go hand in hand. I have, therefore, carried out a review of the various concessions and exemptions under the Income Tax Act. I find that many of them are no longer necessary and some of them are also being used for tax avoidance. I, therefore, propose to withdraw many of these provisions. These include exemption to

the Export Import Bank of India and exemption in respect of certain perquisites on foreigners employed in India. The blanket exemption in respect of educational and medical institutions which is being misused, is proposed to be withdrawn, compelling such institutions to come under a discipline. However, safeguards are being provided to ensure that the institutions genuinely serving the social cause in either field do not lose the existing benefits."

15. The Apex Court had an occasion to consider the Sub-Section (22) of Section 10 in the case of ***ADITANAR EDUCATION INSTITUTION vs. ADDITIONAL COMMISSIONER OF INCOME TAX*** reported in ***1997 ITR Volume 224 Page 310,*** has held as under

"Counsel for the Revenue mainly stressed the plea that the exemption under Section 10(22) of the Act would apply only to education institutions as such. According to him, in this case, the assessee might be financing for running an education institution, but it is not itself an education institution. As noted earlier, the Tribunal held that the assessee was an institution existing for educational purposes and not for the purposes of earning any profit and the assessee itself could be termed as an "educational institution" coming within section 10(22) of the Act. The High Court has concurred with this view. The High Court has further held that the medium through which the assessee could effectuate its objects is the college and by employing this medium, the assessee imparts education and it cannot be stated that the assessee is only a financing body and does not, on the facts, come within the scope of "other educational institution" occurring in section 10(22) of the Act. Reliance was placed on the decision of the Allahabad High Court in Katra Education Society v. ITO [1978] 111 ITR 420, to hold that an educational society could be regarded as an educational institution if the society was running an educational institution. We are of the view that an educational society or a trust or other similar body running an educational institution solely for educational purposes and not for the purpose of profit could be regarded as "other educational institution" coming within section 10(22) of the Act. (See CIT v. Doon Foundation [1985] 154 ITR 208 (Cal) and Agarwal Shiksha Samiti Trust v. CIT [1987] 168 ITR 751 (Raj). It will be rather unreal and hypertechnical to hold that the assessee-society is only a financing body and will not come within the scope of "other educational institution" as specified in section 10(22) of the Act. The object of the society is to establish, run, manage or assist colleges or schools or other educational institutions solely for educational purposes and in that regard to raise or collect funds, donations, gifts, etc. Colleges and schools are the media through which the assessee imparts education and effectuates its objects. In substance and reality, the sole purpose for which the assessee has come into existence is to impart education at the levels of colleges and schools and so, such an educational society should be regarded as an "educational institution" coming within section 10(22) of the Act. We hold accordingly. In our view, the judgement of the High Court does not merit interference. The plea of the Revenue to the contrary is untenable and we repel the same. All the appeals filed by the Revenue shall stand dismissed, but there shall be no order as to costs."

16. The aforesaid provision as it stood then and the interpretation placed on it by the various High Courts as well as the Apex Court gave total exemption in respect of the income derived from running such educational institutions. As the said provision was abused by some persons, the said provision was deleted and thus new provision have been inserted. However, it is made clear, the intension of such amendments was not to deny the benefit to the institutions genuinely serving the social cause and to deny the existing benefits. Therefore, the real test is whether the assessee who claiming these exemptions is running educational institutions solely for education

purposes and not for purpose of profit. If the said fact is established, he is entitled to exclude the income from such institution under Section 10. However, as intention of the deletion of Section 10(22) and introduction of these provisions was to compel such institutions to come under a discipline, the stress now is on the aggregate of the annual receipts received by such institutions. By the amended provisions what is intended to be done is, any University or other educational institution existing solely for educational purpose and not for purposes of profit, if it is wholly or substantially financed by the Government, then the income of such educational institutions in the hands of the assessee, is not included in the total income of the assessee. The reason appears to be that if the Government is financing, they would take all precautions before parting with funds and make sure that such educational institution is existing for the educational purpose and not for the purpose of profit. Therefore, the income derived from such institutions is excluded from the total income of the assessee. The next exemption is contained in Sub-clause (iii)(ad). If any University or other educational institution existing solely for educational purpose and not for purposes of profit, if the aggregate annual receipts of such University or education institution do not exceed the amount of annual receipts as may be prescribed.

17. Rule 2BC of the Income Tax Rules prescribes the amount of annual receipts for the purposes of Sub-clauses (iii)(ad) and (iii)(ae) of clause (23C) of section 10, which reads as under:

"2BC (1) For the purposes of sub-clause (iii) (ad) of clause (23C) of Section 10, the amount of annual receipts on or after the 1st day of April, 1998, of any university or other educational institution, existing solely for educational purpose and not for purposes of profit, shall be one crore rupees.

(2) For the purpose of Sub-clauses (iii)(ae) of clause (23C) of section 10, the amount of annual receipts on or after the 1st day of April, 1998 of any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purpose of profit, shall be one crore rupees.]"

18. Therefore, one crore of rupees is the aggregate annual receipts which is prescribed under the Rules. In other words, if the aggregate annual receipts of an education institution is less than one crore, the income from such educational institution in the hands of the assessee, is not taken into consideration in computing the total income of the assessee.

19. Sub-Clause (vi) provides that nay University or other educational institution existing for educational purpose and not for the purpose of profit other than those mentioned in sub-clause (iii)(ab) and sub-clause (iii)(ad) and which may be approved by the prescribed Authority, they are also entitled to the said benefit. In other words, sub-clause (iii)(ab), sub-clause (iii) (ad) and clause (vi) applies to three categories of institutions.

20. Now, we are concerned with the meaning to be attached to the word 'aggregate annual receipt". The argument is, other educational institution referred to in the said sub-clause refers to all educational institutions run by the assessee and aggregate annual receipt of such other educational institutions means the aggregate of annual receipts of all such educational institutions put together. Otherwise, the use of the word "aggregate" loses its meaning. We find it difficult to accept the said argument.

21. Firstly, if the work "aggregate annual receipts" of other educational institution is to be understood as clubbing of annual receipts of all

educational institutions run by an assessee society then it will also include the annual receipts of an educational institution which is wholly or substantially financed by the Government. If that was intention of the Legislature, they would not have introduced separate sub-clauses as (iii)(ab) and (iii)(ad). If such interpretation s placed, sub-clause (iii)(ab) becomes otiose. Therefore, it is not possible to place such an interpretation. If an assessee society is running several educational institutions, if some of them are wholly or substantially financed by the Government in terms of sub-clause (iii)(ab), the income on behalf of such educational institution received by the assessee is exempted from being computed the total income of the assessee. If the assessee is running other educational institutions which are not wholly or substantially financed by the Government, then the benefit of that exemption is also extended to the income derived from such educational institutions and received by the assessee under sub-clause (iii)(ad) reading with sub-clause (iii)(ad) along with Rule 2BC. It was contended, the Legislature used the word “aggregate annual receipt” and “amount of annual receipts” and therefore, the provisions are not one and the same. The work “aggregate” has been defined in Chambers 21st Century Dictionary as under:

“aggregate – noun = a collection of separate units brought together, a total taken altogether, bring together.”

In wharton’s Law Lexicon, it is defined as thus:

“a collocation of individuals, units or things in order to form a whole”

22. Similarly relying on the judgment of the Apex Court in the Case of ADITANAR EDUCATION INSTITUTION vs. ADDITIONAL COMMISSIONER OF INCOME TAX, it was contended the word “other educational institution” refers to the assessee society and not to the individual educational institution. If the intention of the Legislature was to club the annual receipts of all educational institutions run by the assessee society, they could have said so in clear terms. On contrary what is stated in the said Section is the aggregate annual receipts of such University or such educational institution referring to other educational institution. Other educational institution is to be understood with the context of the first work i.e., the University. Both in the University and nay education institutions, education is imparted. The University is a statutory body. But there are a number of educational institutions which are not run by a statutory authority which are imparting education, the word “other educational institution” has to be understood in the context of other than any University. If so understood, all that it means is every educational institution existing solely for educational purpose and not for the purpose of profit, if the aggregate annual receipts of such educational institution exceeds Rs.1 Crore, then the income from such educational institution received by the assessee is excluded from his total income. In an educational institution the amount are calculated periodically. It may be calculated under different heads. All such amount received throughout the year. Therefore, the word “annual” has been inserted. But to be eligible for exemption, aggregate of annual receipts should not exceed Rs.1 crore i.e. the total annual receipts of a year if it does not exceed Rs.1 Crore, then the income derived from such educational institution in the hands of the assessee cannot be taken into consideration to compute the income of the assessee.

23. No doubt, education has become a business, a very profitable business also. But it requires huge investment. It is the duty of the Government to provide education to all its citizens, as the Government is not able to shoulder the responsibility completely. Therefore, the field of education is now thrown open to private organizations. But for throwing open the field to the private operators, probably, the country would not have achieved in the

field of education what it has achieved. Therefore, a lot of funds are invested in running these educational institutions, either by creating a Society or a Trust. In course of time, they have expanded their activity providing course in various subjects at various levels and for that purpose they have established more than one educational institution. Each educational institution is a separate entity controlled under various statutes for various purposes. May be the Management of these educational institutions would be in the hands of the Societies or the Trust, but for all other purposes they are different, independent entities. That is the reason why Section 10 (23)(c) is worded as under:

"Any income received by any person on behalf of …"

Here "any person" refers to the assessee and "on behalf of" refers to such institutions. It may be an University, it may be an educational institution, it may be a hospital or other institutions of similar nature. As all such institutions are independent entity and they generate income and when that income is received by the assessee, it becomes the income in the hand of the assessee and it is such income which is sought to be excluded while computing the total income of the assessee under Section 10. The test prescribed under the aforesaid provision is not the income of the educational institution. It is the aggregate annual receipts of such educational institution that is prescribed at Rs.1 crore. Therefore, irrespective of the expenditure incurred by those institutions, the exemption is based on the total receipts. Even if the work "aggregate" has to be understood as suggested by the Revenue as the annual receipts of such educational institutions put together, probably, the said provision regarding exemption would be of no use at all. Especially, if the society is running a medical college or any engineering college or other professional courses, then the annual receipt of each institution would run to few crores and therefore, the very object of granting exemption to such genuine institution would be lost. Therefore, the work "aggregate annual receipt" has to be understood with the context in which it is used and the purpose for which the said provision was inserted, keeping in mind, the Scheme of the Act. Therefore, if an assessee is running several educational institutions, if any of them is wholly or substantially financed by the Government, then the income from such educational institution received by the assessee is not included while computing his total income. Similarly, income from each educational institution if they are not receiving any aid from the Government wholly or substantially in respect of which the aggregate annual receipt do not exceed Rs.1 crore received by the assessee, is also not included while computing annual total income of the assessee.

24. Clause (vi) makes it clear that if educational institution do not fall under either of those two categories and still such educational institutions are also entitled to the exemption, provided such institutions are approved by the prescribed authority. Therefore, all these three provisions apply under three differed spheres. Otherwise, there was no necessity for the Legislature to introduce these three provisions. In that view of the matter, the finding recorded by the Tribunal that aggregate annual receipt of other educational institution means, total annual receipt of each educational institution, is correct and it does not call for any interference. Therefore the substantial questions of Law No.2 and 3 is answered in favour of the assessee and against the revenue.

SUBSTANTIAL QUESTIONS OF LAW NO. 4 AND 5
PAYMENT OF SUBSIDY OF RS. 2,12,26,465.
AND NOTIONAL INTEREST THEREON*:*

25. The assessee was running a hostel for the benefit of students studying in various institutions managed by it up to 31.12.1999. It was not

a separate entity. From 01.01.2000, the society discontinued the activity of providing hostel facility to the students. They entered into an agreement on 01.01.2000 between the partnes of M/s. Oxford Girls Hostel and the Society. The said partnership firm has to make available the hostel facility to the students studying in the various institutions. For the said purpose, the society made interest free advance to three persons namely, S.L.V. Narasimharaju, Smt. Shakuntala and Smt. Triveni. Under the agreement, the Society has to pay a composite rent for the building and the equipment installed therein at the rate of Rs. 30/- per sq. ft and the super built area was estimated to be 70000 sq. ft. the monthly rent works out to Rs. 21 lakhs. However, this agreement was cancelled and another agreement dated 01.01.2000 was entered into, under which no rent became payable to the aforesaid three persons. They agreed pay the reduced subsidy from originally agreed in the earlier agreement dated 01.04.1988. The quantum of subsidy was arrived at Rs. 2.12 crores. In terms of the said agreement, a sum of Rs. 1.12 crores was adjusted excess the amounts owed to the Society by the M/s. Oxford Girls Hostel. Therefore it was contended that the said payment of Rs. 2,12,26,465.00 is to be treated as expenditure towards house building subsidy. The said case of the society was not accepted by the Assessing Authority as well as first appellate authority on the ground that the subsidy is not a payment for the purposes of the object of the society. It is at best, payment for acquiring enduring benefits . Since there was no genuine motive for such large scale expenditure , even after having cancelled the initial agreement, it was not allowed as genuine expenditure in the books of the society. The Tribunal interfering with the said order, held that the authorities below failed to appreciate that the provision of hostel facility in close vicinity of the educational institution is an absolute necessity to ensure security of the students , especially girl students who come from far of places to study in the educational institution of the assessee-society. The subsidy given amounts only 35% of the total investment requires to be made in the construction of the hostel facility to meet the specific requirement of the students studying in various educational institution run by the assessee-society. The society secured a big advance for a small price. Considering the benefits derived by the assesse-society from the said arrangement, it cannot be denied that the payment of the subsidy for running the hostel facility has resulted in furtherance of the object of the assessee-society only. Therefore they set aside the finding of the assessing authority and extended the benefit.

26. From the aforesaid undisputed facts, it is clear that the Society has entered into an agreement with the partnership firm for providing roughly about 70,000.00 sq.ft. built up area in hostel facility to students of the society studying in various institutions. They had to pay a rent of Rs. 21 lakhs per month. It is in that context when they found it to be unworkable, they entered into another agreement under which the partnership firm agreeing to provide accommodation to the students of the society by collecting charges directly from the students. Thereby the responsibility of providing hostel facility to the students of the society and payment of Rs. 21. Lakhs per month ceased to exist. The terms of the agreement makes it clear that the partnership firm has to provide accommodation only to the students studying in education institutions run by the society. Without the hostel facility, the society cannot run this educational institution as the students are coming from all over the world and there is need to provide hostel accommodation neat to the educational institution and more particularly, girl students. It is in that context, whatever money had been paid earlier, was sought to be adjusted as th subsidy amount thereby the partnership firm committed to provide hostel facility. Having regard to the nature of construction, the extent of construction, the responsibilities and the advantages, the payment of Rs. 2.2 crores as subsidy cannot be

sought to be a huge amount. The Tribunal rightly allowed the said amount as expenditure and deleted the additions made by the assessing authority In that view of the matter, we do not see any error committed by the Tribunal. Consequently, the disallowance of the notional interest on the said amount would also fall to ground. Accordingly, the substantial questions of Law No. 4 and 5 are answered in favour of the assessee and against the revenue.

SUBSTANTIAL QUESTIONS OF LAW NO. 6,8, AND 10
BUILDING FUNDINFRACTURE FUND

27. The addition relates to assessment year 2001 to 2003. This addition is under the head of Building Fund. The Assessing Authority treated the Building Fund as revenue receipt. According to the Society even if the addition is considered as income, that sum being an income of the Society they can claim for exemption under Section 10(23C) of the Act. Therefore, the Society sought for exemption. The Tribunal held that the Building Fund are received specifically towards the corpus of the assessee-society for being applied in the construction of the building , the receipt is capital in nature and therefore it is credited directly to the corpus fund. The grievance is, the Assessing Authority has considered the same as revenue receipt and has made addition. It is not in dispute that the assessee and various educational institutions run by the assessee have received substantial donations. The amount so received from the Building Fund is not included in the income and expenditure account of the society. The amounts received are accounted under the Building Fund. Building is to be constructed only for the educational institution run by the society. The object of donation is charity in nature. Therefore, the Tribunal granted the benefit of exemption.

28. As is clear from the order passed by the Assessing Officer as well as the Commissioner, the benefit of exemption was not extended to the assessee because it failed to give particulars of the persons who gave the said donations. It is in that context the said amount were treated as income and brought to tax. The order of the appellate authority refers to the ledgers and accounts maintained showing the said advances. However, the particulars of the contents of the said books are not set out in the order of the appellate authority. Under these circumstances, if the said advances are received by the parents of the students whose children were studying in the School and the same is properly accounted for under the heading of the Building Fund/infrastructure fund and the said amount if it is utilised for construction of the building which in turn is used for imparting education, it would constitute charity. Therefore the society would be entitled to the benefit of exemption. But it is purely a question of fact. Therefore, the proper thing would be to set aside the finding and remand the matter back to the Assessing Authority, giving an opportunity to the assessee to produce the ledge books and other accounts showing the receipt of such payment and utilization of the said amount for the purpose of construction, so that on the aforesaid material, the Assessing authority can pass suitable orders on merits. Therefore the substantial questions of law No.6, 8 and 10 is not answered, as the matter is remanded back to the Assessing Authority.

SUBSTANTIAL QUESTIONS OF LAW NO.9
DEPRECIATION OF Rs. 2,63,73,226.00

29. The assessee claimed an extent of Rs. 2,63,73,226.00 on account of write off the lease hold properties at 6th Phase, J.P. Nagar. The said building had been shown as part of the fixed asset. The case of the Revenue was any loss relating to fixed asset is only a capital loss and cannot be allowed as revenue expenditure while computing of excess of

income over expenditure . Therefore, they disallowed the expenditure of Rs. 2,63,73,226.00. The assessee's contention was that the said amount represents application of the income of the assessee-society for educational purpose. The depreciation is allowed in respect of the said building in accordance with Section 32(1)(i) and Explanation (1) thereto. Therefore, it follows that the written down value is also written off as it is allowable having regard to the provisions of Section 32(1)(iii) and therefore it cannot be a capital loss. The said contention was over-ruled and the appellate authority has upheld the said order. However, the Tribunal held that the loss relating to the building written off is an expenditure allowable under Section 32(1)(iii) and as such it granted relief to the assessee. Aggrieved by the same the Revenue is before this Court.

30. Section 32 deals with 'depreciation'. It reads as under :

"Section 32. **DEPRECIATION**.

(1) In respect of depreciation of – (i) Buildings, machinery, plant or furniture, being tangible assets;

(ii) Know-how, patents, copy rights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998, owned, wholly or partly, by the assessee and used for the purposes of the business or profession, following deductions shall be allowed.

(i) In the case of assets of an undertaking engaged in generation or generation and distribution of power , such percentage on the actual cost thereof to the assessee as may be prescribed;

(ii) In the case of any block of assets, such percentage on the written down value thereof as may be prescribed 440 439]:"

31. Section 32(1)(iii) reads as under :

(iii) In the case of any building, machinery, plant or furniture in respect of which depreciation is claimed under clause (i) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof:

Provided that such deficiency is actually written off in the books of the assessee.

32. As is clear from Section 32(iii), in the case of building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (i) and which is sold, discarded, demolished or destroyed in the previous year, the amount by which the moneys payable in respect of such building, machinery, plant or furniture together with the amount of scrap value, if any, fall short of the written down value thereof and if such deficiency is actually written off in the books of the assessee, the same shall be deducted. In the instant case, it is not in dispute that the assessee constructed a building on a leased property. It was treated as block asset and depreciation was allowed under Section 32(1) of the Act. However, in the meanwhile, the lease period was over. The said building was discarded, i.e. the building was surrendered to the lessor on the expiry of the lease period. On the date of the expiry of the lease period, the written down value was mentioned in the balance sheet. It is that amount claimed as deduction under clause (iii) of sub Section (1) of Section 32. As is clear from the aforesaid provisions, the assessee is entitled to the said deduction.

> The lower authority by misreading the provisions of law had denied the said benefit. In that view of the matter, there is no merit in the said contention. Accordingly, the said substantial question of law No.9 is answered in favour of the assessee and against the Revenue."

23. Apparently in the interregnum of the event extracted above, on some sort of sourced information, the CBI, ACB, Bangalore, registered a criminal case RC/14(A)/2008-BLR on 26.09.2008 against Shri Chandramouli, then DCIT of Central Circle, Bangalore, and Shri S. Narasaraju, Chairman, M/s. Children Educational Society, Bangalore and Shri Jha. Apparently, Shri Chandramouli had conducted a survey under Section 133-A of the Income Tax Act on the premises of the Society and impounded some documents. The charge against Shri Chandramouli was that he had conspired with Shri S. Narasaraju and fraudulently returned the key documents which showed a financial transaction of Rs. 10.20 crores of the Society with M/s. Binco Constructions Pvt. Ltd. It was said that Shri Chandramouli was passed an assessment order of the Society for the assessment year 2004-05 on 22.12.2006 ignoring the aforesaid transactions with the Society and thereby reducing the tax liability of the assessee. Apparently, Shri Chandramouli submitted a proposal on 31.8.2006 to the DGIT Investigation, Bangalore seeking permission to retain some impounded documents upto 31.03.2007. This proposal was approved and later for extension of permission was also filed which is also allowed. In the charge sheet itself it is mentioned that after retaining copies and after the permissible limit was over, these documents were earlier released to the assessee on 13.10.2006. This proposal was approved by the DCIT Investigation , Bangalore on 29.03.2007.

24. Anyhow, in the trial Court, the matter ended in conviction of the accused who are both the applicants here and they filed an appeal before Hon'ble High Court of Karnataka in Criminal Appeal No. 1305/2006 connected with Criminal Appeal No. 1306/2006. The paragraph 2 in page No.6 of the judgement onwards is germane to our issue. It is extracted herewith.

> ***"… The Assessing Officer had issued a questionnaire to the assessee and posted for compliance on 25.08.2006. Once again, on 19.09.2006, a remainder was issued and again the matter was posted***

on 8.11.2006. After further remainders, the Assessing Officer, in order to obtain information regarding the authenticity of the claim, had conducted a survey under Section 133A of the IT Act in the premises of the assessee and perused the records maintained by the assessee on 29.08.2006 and impounded a number of documents. These were numbered as Annexures 1 to 3. The Officer was entitled to retain the documents for a period of 10 working days for the purpose of verification. He could not complete the work of verification within the said period and the assessment order ought to be passed on or before 31.12.2006 in terms of Section 153 of the IT Act. Since the material impounded was required for further investigation upto that date for the purpose, he had sought permission of his superiors to retain the impounded documents upto 31.03.2007. Thereafter, on 6.9.2006, he had submitted a preliminary survey report about the proceedings taken by him. Certain internal enquiries were made in the Department and the CBI, based on source information, proceeded to register an FIR and thereafter investigation was conducted. The case was registered as Spl.C.C.No.155/2010 before the Special Judge for CBI Cases, Bangalore, and charges were framed alleging offences punishable under Sections 218, 420 read with Section 120-B of the IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 in respect of which the prosecution had tendered evidence and marked a number of documents. It was noticed that the Sessions Judge had failed to record the statement of the accused under Section 313 of the Code of Criminal Procedure, 1973, but merely directed that they should present their defences. Thereafter, the Sessions Judge had proceeded to render judgment and had awarded a sentence, whereby the appellant in the first of these appeals as well as the appellant in the second of these appeals who were the accused, were convicted and sentenced to undergo rigorous imprisonment for a period of six months for an offence punishable under Section 120-B read with Section 420 IPC; to undergo rigorous imprisonment for a period of 1 ½ years and to pay a fine of Rs.1,50,000/- in respect of the offence punishable under Section 218 IPC; to undergo rigorous imprisonment for the period of five years and to pay a fine of Rs.2,50,000/- for the offence punishable under Section 420 IPC and, to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.2,50,000/- for the offence punishable under Sections 13(2) read with Section 13(1)(d(ii) of the Prevention of Corruption Act, 1988. It is that which is under challenge in the present appeals.

3. The learned Senior Advocate Shri M.V. Sheshachala appearing for the counsel for the appellants would contend that the court below has completely overlooked the mandatory requirement under Section 313(1) of the Cr.P.C. and calling upon the accused to have his say as regards the incriminating material that was found in the evidence against him and this by itself is a ground which is sufficient to allow the appeals and set aside the judgment. On the other hand, it is to be seen that there are no incriminating material appearing against the accused, from the evidence of PW-1 to PW-16. This is confirmed by the fact that the Trial Court has not referred to the evidence of any of the witnesses which could be termed as incriminating evidence and hence, the judgment ought to be set aside on that ground alone. The Trial Court was also in error in arriving at a conclusion that sanction for prosecution was neither necessary under Section 19 of the PC Act nor under Section 197 of the IPC notwithstanding that the entire allegations against the appellants are in respect of their actions in the course of their official functions.

Apart from pointing out other infirmities, the primary contention of the learned Senior Advocate is to the overall tenor of the

judgment which on a bare reading, would indicate that the Trial Court was in fact sitting in appeal over the assessment order passed by the appellant and has proceeded to meticulously make calculations of the amounts indicated towards the loss, profit and the exemption that was claimed in holding that the charges have been brought home on the footing that the documents which were impounded and were continued to be impounded on the basis of orders of the superiors of the appellant from time to time, had been unceremoniously returned to the assessee without obtaining a further order from his superior in that regard and thereby, it has resulted in the assessee being able to benefit from such documents having not formed part of the record and thereby, the revenue loss that has occasioned to the State is clearly for illegal consideration obtained by the appellant and that such act committed by the accused was for illegal gratification, which may have been received by the accused.

The learned Senior Advocate would point out that from the evidence of the prosecution, it is nowhere apparent as to the manner in which the accused could have benefited by virtue of the documents having been returned to the assessee, nor is there any mention of the amount of monies that could have been paid to the accused or is there any mention of the monetary benefit that may have accrued to the assessee in the absence of which, the criminality as regards the action of the appellant, is not forthcoming. The return of the documents without proper permission or authority, by itself would not result in any criminal offence and could at best be an act of indiscipline which might warrant disciplinary action against the appellant and nothing more. The contention that the documents have been returned for illegal benefit of the accused or to enable the assessee to have the benefit of escaping income tax, is also not demonstrated with any particulars, in the absence of which, it could not be said that the charges could have been brought home. The court below, proceeding to make a re-assessment as it were and to hold that the accused had committed an offence and thereby caused loss to the revenue, is an exercise which is not contemplated in criminal law and in the absence of categorical allegations or charges being made, the court below proceeding to pass the judgment in the manner that it has, results in a miscarriage of justice. Particularly, the learned Senior Advocate would point out that on a point of law, it could not be said that the so-called irregularity or illegality committed by the appellant in this case would amount to a crime. On the other hand, the law mandates that the appellant could not retain such impounded documents beyond a prescribed period and to do so, he requires the permission of his superior and such permission has been obtained once. The retaining of such impounded documents indefinitely being impermissible, the appellant has returned the documents after the assessment was made for the year 2004-05. There is no illegality and even otherwise, it is pointed out that on noticing that the document was no longer available, there has been a re-construction of the said document, as reflected in the judgment impugned. Therefore, there is no substance in the case of the prosecution.

4. The learned Standing counsel for the CBI on the other hand, would vehemently oppose this appeal and would seek to justify the judgment of the court below. He would particularly refer

to Section 133-A of the IT Act and would also rely on sub-section (3) thereof to contend that without obtaining permission of the authority, the document could not have been returned. While also stating that from a reading of Section 13(1)(d) of the PC Act, it is not necessary for the prosecution to specify the revenue loss or other benefit which the accused may have obtained or any other person could have derived. It is sufficient if it is established that there was loss caused to the revenue and that there was pecuniary advantage to the assessee in view of the actions of the accused. It is in this vein that the learned counsel seeks to justify the judgment of the court below.

5. While by way of reply, the learned Senior Advocate would point out that it would be incorrect to contend that Section 13(1)(d) of the PC Act does not require the prosecution to specify the benefit that may have accrued to any other person. It would be contrary to the first principles of criminal jurisprudence if on such vague charges an accused could be held guilty. Not only the crime committed to be specified in particular, the loss or gain would also have to be specified. For otherwise, it is only on a vague charge the prosecution would be seeking to prove the case as against the accused. Further, insofar as the reliance placed under sub-section (3) of Section 133-A of the IT Act, it is pointed out that under the proviso to the sub-section, if the documents had been impounded under sub-section 2A of the said section, then sub-section (3) does not apply and in the absence of any indication as to under which provision the documents were impounded, the benefit of the said proviso to sub-section 2Awould be to the advantage of the accused and would thus contend that the appeal be allowed.

6. On a consideration of the above facts and circumstances, it is to be firstly noticed that the appellant was acting as an officer of the Department and was carrying out his official duties in passing an assessment order. The assessment order for the year 2004-05 was duly completed. The document in question which was impounded was in relation to the said assessment year. It is also not in dispute that the appellant had obtained permission to impound the documents beyond the prescribed period, from his superior authority. If once he has obtained such permission and once the assessment order has been completed, the question of detaining the document indefinitely, did not arise. It is only on a re-look into the matter, the authorities had opined that the document was necessary to further address the exemption that was claimed by the assessee and since the document was not available, exception has been taken against the accused and he has been hauled up along with the appellant in the second of these appeals of having committed a grave crime, without specific information regarding the advantage that the appellants may have derived, or the monetary benefit which the assessee may have gained by virtue of this action. Therefore, even if it could be assumed that the appellant had deliberately acted in returning the impounded documents, in the absence of particulars of the amounts that may have changed hands, or the benefit that the assessee may have derived, it was not open for the court below to have carried out the exercise of re- assessment as it were and then to conclude that there was indeed revenue loss, which is impermissible.

The criminality of the conduct of the appellant was to be established in an appropriate fashion, which has not been done. The fact that the accused was not examined and his statement under Section 313 of the Cr.P.C. was not recorded, would also be a ground which would, without entering upon the merits of the case, the accused could have been acquitted. In any event, from the facts and circumstances as narrated above, there is no case made out against the accused whatsoever and the court below was in serious error in having proceeded to hold that the charges have been brought home, when the charges itself were vague and not sufficient in detail for the prosecution to even establish its case. In that view of the matter, the appeal is allowed. The judgment of the court below is set-aside. The appellant is acquitted. The bail bond if any, stands cancelled.

In view of the first of these appeals having been allowed, the second of these appeals is also allowed. The judgment of the court below is set aside. The bail bond if any stands cancelled. The accused are acquitted."

Therefore, Hon'ble High Court of Karnataka in two instances have considered the issues read there and had found that factually there may not be anything to be shown as an infraction on the side of both of these applicants.

25. Coming to the law in question, the ground taken in reply is that since departmental action has been initiated because prima facie, the Disciplinary Authority was of the view that the evidences show misconduct on the part of the applicants. Therefore, they would say that under CCS (CCA) Rules, 1965, where an independent authority, i.e. Enquiry Officer, will give a finding and the applicant will get a full opportunity to present his case and rebut the charges evidenced against him. Therefore, they would say that the purpose of departmental enquiry and of prosecution are two different and distinct aspects. They would say that the criminal prosecution was launched for an offence for violation of duty and the offended owes to the society, so the crime is an act of omission in violation of law or omission of public duty whereas the departmental enquiry is to maintain the discipline in service and efficiency of public service. They would say so that the

departmental enquiry canvases a less distinct and smaller horizon and circumstantial evidence as well as preponderance of probability in distinguishing evidences play a major role in departmental enquiry and, therefore, just because the Hon'ble High Court has held that the applicant to be not guilty it may not be essentially correct as the Disciplinary Authority acting under departmental procedure can take a different view.

26. But how can a departmental authority be allowed to discipline and guide a quasi judicial officer, even though subordinate authority? Will it not destroy the purpose of quasi judicial determination and the concept of judicial independence?

27. This issues seem to us to be much ado about nothing. In fact, in paragraph 8 of its order in ITA Nos.329 to 331 of 2008 in respect of the same assessee, the Income Tax Tribunal held that the assessee and the CIT (A) failed to appreciate that the issue of status is the question of both law and facts. **Since in the earlier years, the same assessee was considered as an AJP though it could be countermanded, there must be change in the status or it must lose some of its qualities of being a juridical person**. We have inspected all pleadings and the cause and found that in fact the issues recorded in the fact sheets were dealt with quasi judicially by the applicant as capital, but the view taken by the department seems to be that it has to be revenue. Even assuming that the view of the department may be correct, this is not a matter in which the applicant can be held answerable in a departmental enquiry as he has passed the order in a quasi-judicial capacity. Besides which the ITAT as well as Hon'ble High Court have also not found fault with the assessment made as it has been explained in the order issued by the Hon'ble High Court of Karnataka. It appears that as soon as the Hon'ble High Court in its

appellate side acquitted the accused only this enquiry issues have cropped up. **Without any doubt it is illegal at the extreme and an abuse of the process of law**. None of the test stipulated for any significant infraction on the part of an assessing officer is even alleged by the respondents against the applicant. The question of Shri Jha is even more strange. The charge against him is that he had allowed at least orally for the documents have to be given back and that too, after obtaining a certified copy of the same. It has come out in evidence that based on these documents, statement was recorded from Smt. Shakuntala and all other connected persons including the building contractor. Based on this, order has been passed by the applicant and only after that the juncture of Shri Jha comes in. **In any case under Section 133(3)(iii)(a) these documents have to be returned.** Therefore, the contention that because of returning of these documents revenue receipt is blocked is incorrect, to say the least. The only question was that whether the society is a juridical person or not which consistently from 2001 onwards ITAT were holding and assessment re-modulated as it is a juridical person by the department there upon all these years. Therefore, **we hold and declare that there is no infraction on the side of the applicant in both the cases. The charge sheet as it lies will not lie under law and is an abuse of process of power. The charge is against the dictum pronounced by the Hon'ble Apex Court in many cases and the factual position as developed in the two judgments of the Hon'ble High Court mentioned above.** Therefore, the charge sheet against both the applicants are hereby quashed and set aside.

28. If in the interregnum, any of the applicants are / have missed out in any of the career enhancement process because of the pendency of the charge sheet or the connected proceedings, then within the next two months, it is to be re-visited and benefits, if any, issued to both of them.

29. OA is allowed as above, no costs.

(PRASANNA KUMAR PRADHAN)
ADMINISTRATIVE MEMBER

(DR. K.B. SURESH)
JUDICIAL MEMBER

cvr.

ANNEXURES ANNEXED WITH OA NO.55/2017:

Annexure A1: Copy of the return filed for the Assessment Year 2004-05
Annexure A2: Copy of the Preliminary Survey Report dated 06.09.2006
Annexure A3: Copy of the order of Assessment dated 22.12.2006
Annexure A4: Copy of Final Survey Report dated 12.11.2005
Annexure A5: Copy of order passed by the Hon'ble High Court in ITA No.1078/2006 dated 18.03.2013
Annexure A6: Copy of the Tribunal's order in ITA No.329-331/BANG/2008, dated 11.07.2008.
Annexure A7: Copy of the order dated 28.08.2008
Annexure A8: Certified copy of the Hon'ble High Court order in Crl.A.No.1305/2016 dated 05.11.2016
Annexure A9: Copy of the disciplinary proceedings dated 09.04.2010 under a Memorandum.
Annexure A10: Copy of the order sheet dated 24.01.2017.

ANNEXURES WITH THE REPLY STATEMENT:

Nil.

ANNEXURES WITH THE REJOINDER:

Annexure A11: Copy of the order sheet of the Enquiry Officer dated 19.01.2017

- Copy of the order in OA No.632/2014 dated 13.04.2016 in the case Dr. P.K. Srihari Vs. UOI.
- Copy of order in WP No.56608/2016 dated 02.01.2017 in the case of UOI & Ors. Vs. Dr. P.K. Srihari.
- Copy of order in OA No.466/2014 dated 05.10.2016 in the case of Shri K. Satyanarayana Vs. CBDT & Anr.

ANNEXURES WITH THE ADDITIONAL REPLY:

Nil.