

(1991) 03 MP CK 0015

**Madhya Pradesh High Court (Indore Bench)****Case No:** M.C.C. No"s. 103 and 104 of 1989

Commissioner of Income Tax

APPELLANT

Vs

State Bank of Indore

RESPONDENT

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**Date of Decision:** March 8, 1991**Acts Referred:**

- Income Tax Act, 1961 - Section 256

**Citation:** (1992) 194 ITR 124 : (1993) 68 TAXMAN 136**Hon'ble Judges:** V.S. Kokje, J; V.D. Gyani, J**Bench:** Division Bench**Advocate:** V.S. Samvatsar, for the Appellant; J.W. Mahajan, for the Respondent

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**Judgement**

V.S. Kokje, J.

This order shall also govern the disposal of M. C. C. No. 104 of 1989 (CIT v. State Bank of Indore"). These are applications u/s 256(2) of the Income Tax Act, 1961, (for short "the Act"), filed by the Commissioner of Income Tax, Bhopal. Reference applications were filed u/s 206(1) of the Act, by the Department before the Income Tax Appellate Tribunal, Indore, proposing the following questions of law :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the amount paid by the assessec to the Industrial Development Bank of India as rediscounting charges were deductible in determining the assessee"s income from interest on bills purchased under the Interest-tax Act for the assessment years 1982-83 to 1983-84 ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in deciding the issue of income earned by the bank on drafts, demand drafts and its assessability to interest-tax, in favour of the assessee in view of the Madhya Pradesh High Court decision in the assessee"s own case dated November 6, 1987 (see [Commissioner of Income Tax Vs. State Bank of Indore,](#)

2. It is an admitted fact that these were the very issues which were raised earlier between the Income Tax Department and the State Bank of Indore. In [Commissioner of Income Tax Vs. State Bank of Indore](#), (M. C. C. No. 281 of 1985 decided on November 6, 1987), the Division Bench of this court had already answered these very questions holding in favour of the assessee. The Income Tax Appellate Tribunal, therefore, relying on the aforesaid judgment of the High Court refused to make a reference and dismissed the application u/s 256(1) of the Act before it, The applicant has now come in this application u/s 256(2) of the Act before us.

3. In [Commissioner of Wealth-tax Vs. Smt. Usha Devi \(Lrs. of H.H. Maharaja Yeshwant Rao Holkar\)](#), (M. C. C. Nos. 136 to 145 of 1988 decided on August 1, 1989), a Division Bench of this court has held that where a Tribunal has passed an order following the decision of the High Court in another case, an application u/s 256(2) could not be entertained. As the case is fully covered by an earlier judgment which was followed by the Tribunal, no referable question can be said to arise.

4. Relying on the aforesaid two judgments, we dismiss these applications, However, there shall be no order as to costs.