

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 61 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

MUNIRKUMAR BHARATKUMAR DALAL TRUST

Appearance:

MR MIHIR JOSHI FOR MR MANISH R BHATT for Petitioner
MR HM TALATI for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 31/08/2000

ORAL JUDGEMENT (Per D.M. DHARMADHIKARI, C.J.)

1. The question referred under Section 256(1) of the Income Tax Act,, 1961 to us for answer is as under:

"Whether, on facts and in the circumstances of the case, the correct status of the assessee should be taken as an "Association of Persons" and that the assessee could be entitled in law to claim deductions under Section 80C and 80L of the Income-Tax Act, 1961?"

2. Learned Counsel for the Department brings to our notice the order dated 22-1-1998 in Income Tax Reference No. 21 of 1985 in assessee's own case for the earlier assessment year, where, relying on the decision in CIT vs. Deepak Family Trust No.1 reported in 211 ITR 575, it was held that where the assessee was a discretionary trust, it was entitled to deductions under Section 80L of the Income Tax Act, 1961. The representative assessee in the case of discretionary trust is regarded as an individual and the Trust should be entitled to the benefit of deductions under Section 80L of the Act.

3. For the aforesaid reasons, therefore, the reference is answered in favour of the assessee and against the revenue. The reference accordingly shall stand disposed of.

There shall be no order as to costs.

(D.M. DHARMADHIKARI, C.J.)

(A.R. DAVE, J)

[sndevu]