

INCOME TAX REFERENCE No 12 of 1987

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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

COMMISSIONER OF INCOME TAX

1. INCOME TAX REFERENCE No. 12 of 1987
MR MANISH J. SHAH for Applicant.
MR AKIL QURESHI FOR MR MANISH R BHATT
for Respondent.

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 31/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the assessee, the following question of law has been referred to this Court for its opinion under the provisions of section 256(1) of the Income-tax Act,1961 by the Income Tax Appellate Tribunal, Ahmedabad Bench 'C'.

"Whether, on the facts, and in the circumstances of the case, the capital gain of Rs.38,177/- arising from sale of agricultural land was liable to tax under the Income tax Act,1961?"

2 We have heard learned Advocate Mr.Manish Shah appearing for the applicant and learned Advocate Mr.Akil Qureshi for the respondent-revenue. The question which has been referred to this Court has been squarely answered by the Hon'ble Supreme Court in the case of Singhai Rakesh Kumar vs. Union of India & Others, 247 I.T.R. 150. Looking to the law laid down in the said judgment it is clear that the capital gain deriving from sale of agricultural land is subject to income tax and, therefore, we answer the question referred to us in the affirmative i.e. in favour of the revenue and against the assessee.

3 The Reference thus stands disposed of accordingly with no order as to costs.

Sd/- Sd/-

(A.R.Dave, J) (D.A.Mehta,J)

m.m.bhatt