

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 140 of 1987

For Approval and Signature:

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

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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
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COMMISSIONER OF INCOME-TAX

Versus

JAYANT H HARIBHAKTI

Appearance:

1. INCOME TAX REFERENCE No. 140 of 1987
MR AKIL QURESHI for MR RP BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1
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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)

At the instance of the revenue, the following question of law has been referred to this court for its opinion by the income Tax Appellate Tribunal, Ahmedabad Bench 'A' under the provisions of sec. 256(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

"Whether on the facts and in the circumstances of the case the assessee is entitled in law to the relief under section 80U of the Income-tax Act, 1961?"

2. Learned advocate Shri Akil Qureshi has appeared for the applicant whereas nobody has appeared for the respondent, though served.

3. We have perused the order passed by the Tribunal. The Tribunal decided the appeal on the basis of its earlier decision rendered in the case of Shri B.P. Parikh (I.T.A. No. 24/Ahd/81). It has been submitted by the learned advocate appearing for the revenue that in the case of Shri B.P. Parikh reference was filed in the High Court and the said reference has already been decided. The case of Shri B.P. Parikh has been reported in 239 ITR 645.

3. Upon perusal of the judgment delivered in the case of Shri B.P. Parikh and looking to the law laid down by this court in the said case, we answer the question in the affirmative i.e. against the revenue and in favour of the assessee.

The reference stands disposed of accordingly with no order as to costs.

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

(hn)