

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 185 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

and

Hon'ble MR.JUSTICE A.M.KAPADIA

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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 concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME TAX

Versus

ARUNODAYA MILLS LTD.

Appearance:

1. INCOME TAX REFERENCE No. 185 of 1990
MR MANISH R BHATT for Petitioner No. 1
MR PRANAV G DESAI for Petitioner No. 1
MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

and

MR.JUSTICE A.M.KAPADIA

Date of decision: 30/06/2003

ORAL JUDGEMENT

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

At the instance of the revenue, the following questions have been referred to this Court by the Income-tax Appellate Tribunal, Ahmedabad Bench - A under the provisions of Section 256(1) of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the contribution of Rs.5,000/received by the assessee trust from Arunodaya Mills Ltd., Morvi was not in nature of revenue receipt and a voluntary contribution which fell outside the scope of income liable to tax under the provisions of Income-tax Act, 1961?
2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in treating the contribution of Rs.5,000/- by Arunodaya Mills Ltd. as the capital receipt and not the revenue income of the assessee?

Standing Counsel Shri P.G. Desai has appeared for the applicant-revenue whereas learned advocate Shri B.D. Karia has appeared for the respondent-assessee.

The learned advocates have submitted that the controversy involved in this reference has already been resolved in the case of the assessee itself. They have drawn our attention to the judgement dated 7th November, 2001 delivered in the case of the assessee which relates to the assessment year 1984-85 in Income Tax Reference No. 92/1995 whereas the controversy involved in this reference is for the assessment year 1983-84.

Looking to the law laid down by this Court in the case of the assessee for the assessment year 1984-85, we answer both the questions in the affirmative i.e. in favour of the assessee and against the revenue.

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

(A.R. DAVE,J.)

(A.M.KAPADIA,J.)

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