(1992) 07 OHC CK 0016

In the Orissa High Court

Case No : S.J.C. No''s. 140 and 143 of 1988

Commissioner of Income Tax — APPELLANT

Vs

B.N. Agarwala and Co. — RESPONDENT

Date of Decision : 13-07-1992

Acts Referred:
Income Tax Act, 1961 — Section 256(2)

Citation : (1993) 200 ITR 246

Hon'ble Judges : D.M. Patnaik, J;A. Pasayat, J

Bench : Division Bench

Advocate : R.P. Kar, for the Appellant; S. Ray, for the Respondent

Judgement

A. Pasayat, J.—Since both the cases involve an identical dispute, they are disposed of by this common judgment.

2. Heard Mr. R. P. Kar for the Department and Mr. S. Ray for the assessee. On being moved by the Revenue u/s 256(2) of the Income Tax Act, 1961 (in short, "the Act"), this court had directed the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (in short, "the Tribunal"), to state a case and refer the following question for our opinion:

"Whether, on the facts and in the circumstances of the case, interest awarded by an arbitrator is income to be assessed to tax under the Act ?"

3. The dispute relates to the taxability of interest received by an assessee in relation to an arbitration award. Taxability of such interest came up for consideration of this court in several cases. In Govinda Choudhury and Sons Vs. Commissioner of Income Tax, , this court held such interest to be of capital nature and, therefore, not taxable as a revenue receipt. We are in agreement with this view expressed in Govinda Choudhury and Sons Vs. Commissioner of Income Tax, and the answer to the question referred to us is in the negative, in favour of the assessee and against the Revenue.

4. The reference is, accordingly, disposed of. No costs. D.M. PATNAIK J.--I agree.