(2000) 11 SC CK 0139

In the Supreme Court Of India

Case No : Civil Appeal No''s. 6083 and 6298 of 1997 21 November 2000 A.Y. 1984-85 and 1985-86

Commissioner of Income Tax — APPELLANT

Vs

Dharmodayam Co. — RESPONDENT

Date of Decision : 21-11-2000

Acts Referred:
Income Tax Act, 1961 — Section 11

Citation : (2001) 165 CTR 12 : (2001) 116 TAXMAN 204

Hon'ble Judges : S.P. Bharucha, J;Ruma Pal, J;Mrs. Ruma Pal, J;Doraiswamy Raju, J

Bench : Full Bench

Final Decision : Allowed

Judgement

By the Court

The assessment years here involved are 1984-85 and 1985-86. Until the introduction of section 11(4A) into the Income Tax Act, 1961, on 1-4-1984, the case of the assessee was governed by the decision of this court in its own case of Commissioner of Income Tax, Kerala Vs. Dharmodayam Co., Section 11(4A) has introduced conditions in the application of sub-sections (1), (2), (3) and (3A) of section 11. It does not appear that the Tribunal has applied its mind to these conditions and given findings of fact as to whether or not they are satisfied. Nor has the High Court given due consideration to this aspect. To be able to decide whether the assessee is entitled to the benefit of the exemption u/s 11. It is necessary for the Tribunal to determine whether it satisfies the requirements of section 11(4A). Accordingly, the orders of the High Court under challenge and the orders of the Tribunal from which the reference was made are set aside and the matters (ITA No. 681 /Coch/1987 & ITA No. 264/Coch/1989) are restored to the file of the Tribunal, Cochin, to be considered afresh in the light of what has been stated above.

The appeals are allowed accordingly.

No order as to costs.

