

(2000) 11 SC CK 0165

In the Supreme Court Of India

Case No : Civil Appeal No: 2658 of 1998

Commissioner of Income Tax

APPELLANT

Vs

Programme for Community Organisation

RESPONDENT

Date of Decision : 28-11-2000

Acts Referred:

Income Tax Act, 1961 Sec 11(1)(a)

Citation : (2003) 9 SCC 237

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

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The questions that were referred to the High Court for consideration, at the instance of the Revenue, read thus :-

"1. Whether, on the facts and in the circumstances of the case and on an interpretation of the relevant provisions of the Income Tax Act, the assessee is entitled to exemption at 25% on 2,57,376/- or only on 87,010?

2. Whether, on the facts and in the circumstances of the case, should not the Tribunal have accepted the view of the Revenue expressed in the circular, the same being consistent with the relevant provisions of the Income Tax Act, 1961?

3. Whether, on the facts and in the circumstances of the case, and also considering the scope of the earlier order of the CIT (A) dated 18-11-1983 the Tribunal is right in law in holding that the CIT (A) has rightly interfered with the order of the Income Tax Officer?"

2. The answers being in favour of the assessee, the Revenue is in appeal by special leave.

3. The question that really requires consideration is whether, for the purposes of Section 11 (1)(a) of the Income Tax Act, 1961, the amount for the grant of exemption of twenty five per cent should be the income of the Trust or it should

be its total income as determined for the purposes of assessment to income tax. This question has to be answered in the light of these facts: The assessee-Trust received donations in the aggregate sum of ` 2,57,376/-. It applied thereout for its charitable purposes the aggregate sum of ` 1,70,369/- leaving a balance of ` 87,010/-. The question is whether the assessee is entitled to accumulate twenty five per cent of ` 2,57,376/-, as it contends, or twenty five per cent of ` 87,010/-, as the Revenue appeared to contend.

Section 11(1)(a) reads thus :-

" 11(1)(a). Income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India, and where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of twenty five per cent of the income from such property."

4. Having regard to the plain language of the above provision, it is clear that a charitable or religious Trust is entitled to accumulate twenty five percent of its income derived from property held under Trust. For the present purposes, the donations the assessee received, in the sum of ` 2,57,376/- would constitute its property and it is entitled to accumulate twenty five per cent thereout. It is unclear on what basis the Revenue contended that it was entitled to accumulate only twenty five percent of ` 87,010/-.

5. For the aforesaid reasons, the civil appeal is dismissed.

6. No order as to costs.