(2002) 07 MAD CK 0027

In the Madras High Court

Case No : Tax Case No. 749 of 1991 10 July 2002

Commissioner of Income Tax — APPELLANT

Vs

Rajamani Raman — RESPONDENT

Date of Decision : 10-07-2002

Acts Referred:

Citation : (2002) 124 TAXMAN 4

Hon'ble Judges : V.S. Sirpurkar, J;N.V. Balasubramanian, J

Bench : Full Bench

Advocate : T.C.A. Ramanujam, for the Revenue, for the Appellant;

Judgement

V.S. Sirpurkar, J.

The question referred for our consideration is :

Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the pension received by the assessee

from the Malaysian Government could not be assessed as salary under the Income Tax Act, 1961 ?

2. The question is referred at the instance of the revenue. The Tribunal in its order relying on articles 18(3) and 18(5) of the Agreement for

Avoidance of Double Taxation of income entered into between the Government of India and Government of Malaysia, has held that the pension

received was not taxable in India, since it was liable for tax in Malaysia, which was the contracting state. There will be no question of its inviting the

taxation in India, which would amount to double taxation. The Tribunal has pointed out that the University of Malaysia is a statutory authority and

as such, would fall within the term ''Government'' and, therefore, the pension paid by the University of Malaysia, as in the present case, would have to be construed for the purpose of the agreement as pension received from the government, which is taxable in terms of article 18(3) in Malaysia

by Government of Malaysia. We do not find anything wrong in the order and it is absolutely correct and we confirm the same. The question is,

therefore, answered in favour of the assessee, and against the revenue. No costs.

