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(1992) 03 CAL CK 0013

In the Calcutta High Court

Case No : Income-tax Reference No. 111 of 1991

Commissioner of Income Tax APPELLANT

Vs

Savan Public Charitable Trust RESPONDENT

Date of Decision : 16-03-1992

Acts Referred:
Income Tax Act, 1961 — Section 11, 13, 13(1)

Citation : (1993) 201 ITR 877

Hon'ble Judges : Shyamal Kumar Sen, J;Ajit K. Sengupta, J

Bench : Division Bench

Advocate : D. Paul and M. Seal, for the Appellant;

Judgement

Ajit K. Sengupta, J.—In this reference u/s 256(1) of the Income Tax Act, 1961, for the assessment year 1984-85, the following question of law has been referred to this court :

" Whether, on the facts and in the circumstances of the case and on a correct interpretation of the law, the Tribunal was justified in holding that the amended provisions of Section 13(1)(d) of the Income Tax Act, 1961, came into play only in those cases, where the cut off date (November 30, 1983) falls within the relevant previous year and thereby allowing exemption u/s 11 of the Income Tax Act to the assessee ?"

2. The brief facts of the case are that the assessee is a public charitable trust. It claimed exemption u/s 11 of the Income Tax Act, 1961, in respect of its income. The Income Tax Officer rejected the claim holding that the assessee had violated the provisions of Section 13(1)(d) read with Section 11(5) of the Income Tax Act, 1961. In appeal, the Commissioner of Income Tax (Appeals) confirmed the order of the Income Tax Officer and dismissed the assessee''s appeal- On further appeal before the Appellate Tribunal, the Tribunal allowed the assessee''s appeal and directed the Income Tax Officer to allow exemption u/s 11 of the Income Tax Act, 1961.

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3. This question came up for consideration before this court in Income Tax Reference No. 36 of 1990 Commissioner of Income Tax Vs. Deoria Public Charitable Trust, where the judgment was delivered by this Bench on April 29, 1991. Inasmuch as, in this case, the previous year of the assessee ended on October 30, 1983, and the cut off date being November 30, 1983, the assessee is entitled to the benefit of exemption in view of the aforesaid judgment. Following the said decision, we answer the question in this reference in the affirmative and in favour of the assessee.

4. There will be no order as to costs.

Shyamal Kumar Sen, J.

5. I agree.

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