

Commissioner of Income Tax Vs Jewellers Association

Court: Rajasthan High Court (Jaipur Bench)

Date of Decision: May 1, 1991

Acts Referred: Income Tax Act, 1961 "Section 11, 12, 256

Citation: (1992) 102 CTR 78 : (1991) 191 ITR 568

Hon'ble Judges: M.B. Sharma, J; Farooq Hasan, J

Bench: Division Bench

Advocate: V.K. Singhal, for the Appellant; G.S. Bapna, for the Respondent

Judgement

1. This is an application u/s 256(2) of the Income Tax Act, 1961 (for short, "the Act"), wherein a prayer has been made that the following question

of law arises out of the order dated June 30, 1989, of the Income Tax Appellate Tribunal, Jaipur Bench, Jaipur (for brevity, "the Tribunal"), and,

therefore, the Tribunal be asked to refer the said questions of law for the opinion of this court.

2. The question whether, under a document, the assessee is or is not a charitable trust, is always a question of construction of the document and

the question of construction of a document is always a question of law.

3. The Tribunal, in its order dated June 30, 1989, agreed with the view of the Appellate Assistant Commissioner of Income Tax, Kota Range,

camp at Jaipur, that the assessee is a charitable trust, and that it was on this score that the order was made by the assessing authority. So, again,

the question whether the assessee is entitled to claim any exemption under Sections 11 and 12 of the Act is a question of law.

4. After having heard learned counsel for the parties, we are satisfied that the aforesaid questions of law arise for adjudication by this court. We

allow this application and direct the Tribunal to state the case and refer the following question of law for the opinion of this court:

Whether, on the facts and in the circumstances of the case, the Tribunal was justified in allowing exemption under Sections 11 and 12 of the

Income Tax Act, 1961, to the assessee?