

(2005) 02 AHC CK 0255

Allahabad High Court

Case No: IT Reference No. 144 of 1989 23 February 2005

Commissioner of Income Tax

APPELLANT

Vs

U.P. Forest Corpn.

RESPONDENT

Date of Decision: Feb. 23, 2005

Acts Referred:

- Income Tax Act, 1961 - Section 10, 11, 256

Citation: (2005) 148 TAXMAN 481

Hon'ble Judges: R.K. Agrawal, J; Prakash Krishna, J

Bench: Full Bench

Advocate: A.N. Mahajan, for the Revenue and S.P. Gupta, for the Assessee, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

1. The Income Tax Appellate Tribunal, Allahabad has referred the following three questions of law u/s 256(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for opinion to this court :

"1. Whether on the facts and in the circumstances of the case, the Tribunal was justified, in law, in holding that the authorities below

had gone wrong in holding that the sales were not within the territorial jurisdiction of the State of U.P.?

2. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law, in holding that the assessee-corporation was entitled to relief u/s 10(20) of the Income Tax Act, 1961 and the additions were not liable to be made on this account?

3. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law, in treating the assessee-corporation's income as exempt u/s 11 of

the Income Tax Act, 1961 as taken in the additional ground of appeal before the ITAT?"

2. The reference relates to the assessment years 1979-80,1981-82 and 1982-83.

3. We have heard Shri A.N. Mahajan, the learned standing counsel for the revenue and Shri S.P. Gupta, the learned senior counsel for the respondent-assessee.

4. It is agreed between the learned counsel for the parties that the question Nos. 1 and 2 are to be answered in favour of the revenue and against the assessee in view of the decision of the Apex court in the case of [The Commissioner of Income Tax, Lucknow Vs. U.P. Forest Corporation](#), .

5. So far as the 3rd question is concerned the Lucknow Bench of this court has considered the similar controversy in U.P. Forest Corpn. v. Dy. CIT (2003) 129 Taxman 527 wherein this court has held that the assessee is exempt u/s 11(1) of the Act but the matter has been remanded to the Tribunal on certain issues. It has also been stated that both the department and the assessee have preferred special leave petitions against the order passed by the Lucknow Bench of this court before the Supreme Court which is pending.

6. We accordingly answer the first two questions in favour of revenue and against the assessee and 3rd question in favour of assessee subject to the observations made by the Lucknow Bench of this Court. There shall be no order as to costs.