

(1990) 12 CAL CK 0028

Calcutta High Court

Case No: Matter No"s. 741, 757, 759, 1502 and 1504 of 1989

COMMISSIONER OF
WEALTH TAX

APPELLANT

Vs

HARBANSLAL
CHARITY TRUST.

RESPONDENT

Date of Decision: Dec. 13, 1990

Citation: (1992) 107 CTR 292

Hon'ble Judges: Bhagabati Prasad Banerjee, J; Ajit Kumar Sengupta, J; Ajit Kumar Sen
Gupta, J

Bench: Full Bench

Judgement

AJIT KUMAR SENGUPTA, J. :

The order dt. 26th November, 1990 is recalled. These five applications under s. 27(3) of the WT Act, 1957 relate to asst. yrs. 1978-79, 1979-80, 1980-81, 1981-82 and 1982-83. The common question of law on which reference has been sought for is as follows :

"Whether, on the facts and in the circumstances of the case the Tribunal was justified in law in holding that the provisions of s. 21A of the WT Act, 1957 did not apply and the assessee trust was entitled to exemption under s. 5(1)(i) of the WT Act for the asst. yrs. 1978-79, 1981-82 and 1982-83 ?"

2. It appears that similar question on the interpretation of the corresponding section of IT Act, 1961 came up for consideration before this Court in IT Ref. No. 156 of 1985 where the judgment was delivered on 2nd March, 1990. Following the decision in CIT vs. Birla Charity Trust reported in (1989) 178 ITR 150 this Court answered in the affirmative holding that the provisions of s. 13(1)(c) read with s. 13(2)(h) of the IT Act did not apply in respect of the shares received by the assessee as donations to corpus and consequently, the dividend income from the aforesaid shares was entitled to exemption under s. 11 of the IT Act. The question in the

wealth-tax matters has arisen on the interpretation of corresponding sections of WT Act, 1957.

3. In view of the aforesaid decision of this Court in the case of this assessee this question sought to be referred has to be answered against the Revenue, inasmuch as the same shares are the subject-matter of the wealth-tax assessment.

4. In that view of the matter rules are discharged, applications are dismissed.

5. Leave is given to file Vakalatnama within two weeks.

There will be no order as to costs.

BHAGABATI PRASAD BANERJEE, J. :

I agree.