

**(1990) 04 CAL CK 0031**

**Calcutta High Court**

**Case No:** IT Ref. No. 164 of 1985

COMMISSIONER OF INCOME TAX

APPELLANT

Vs

BHARAT SUGAR MILLS LTD.

RESPONDENT

**Date of Decision:** April 23, 1990

**Citation:** (1992) 107 CTR 306

**Hon'ble Judges:** Suhas Chandra Sen, J; Bhagabati Prasad Banerjee, J

**Bench:** Full Bench

### **Judgement**

BHAGABATI PRASAD BANERJEE, J. :

The Tribunal has referred to this Court the following questions of law under s. 256(1) of the IT Act, 1961 :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in deleting the addition made under the head "Tea, tiffin, food, salary to guest house staff and depreciation on guest house.

2. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that contribution to Molasses Storage Reserve Fund was a revenue expenditure ?"

3. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that only such gratuity was includable in computing the expenditure as was in excess of the amount of exemption provided in s. 10(10) of the IT Act, 1961 ?

4. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was justified in law in holding that the assessee was entitled to relief under s. 80G of the IT Act, 1961 in respect of the donation of Vishwa Mangal Trust ?"

2. The assessment year involved is 1978-79 for which the relevant accounting period ended on 30th June, 1977.

3. The first question is now concluded by a decision of this Court in IT Ref. No. 312 of 1961 in the case of CIT vs. Bharat Sugar Mills Ltd., judgment wherein was delivered on 7th June, 1989. Following the said decision, this question is answered in the affirmative and in favour of the assessee.

4. The second question is also concluded by a decision of this Court in IT Ref. No. 166 of 1985 in the case of CIT vs. New India Sugar Mills judgment wherein was delivered on 12th April, 1990 since reported in (1992) 107 CTR (Cal) 258. Following the said decision, this question is answered in the affirmative and in favour of the assessee.

5. The third question is also concluded by a decision of this Court in the case of Hindustan Motors Ltd. Vs. Commissioner of Income Tax, . Following the said decision, this question is answered in the affirmative and in favour of the assessee.

6. The fourth question is also concluded by another decision of this Court in the case of Commissioner of Income Tax Vs. Upper Ganges Sugar Mills Ltd., . Following the said decision, this question of law is answered in the negative and in favour of the Revenue.

There will be no order as to costs.

SUHAS CHANDRA SEN, J. :

I agree.