

Commissioner of Income Tax Vs ESCORTS LTD.

Court: Delhi High Court

Date of Decision: Sept. 11, 2001

Citation: (2002) 121 TAXMAN 37

Hon'ble Judges: Arijit Pasayat, C.J; D.K. Jain, J

Bench: Full Bench

Advocate: R.C. Pandey and Ajay Jha, for the Revenue S.K. Aggarwal, for the assessee, for the Appellant;

Judgement

Arijit Pasayat, C.J.

These four applications involve common questions which have been referred for opinion of this court by the Tribunal, Delhi Bench "E, u/s 18(1) of

the Companies (Profits) Surtax Act, 1964 read with section 256(1) of the Income Tax Act, 1961. The questions read as under :

1. Whether, on the facts and in the circumstances of the case, the deduction allowed under Chapter VI-A of the Income Tax Act, 1961 is to be

proportionately reduced from the computation of capital for surtax purposes in terms of rule 4 of the Second Schedule to the Surtax Act, 1964 ?

2. Whether, on the facts and in the circumstances of the case, the assessed is entitled to deduction at 50 per cent of the total donation made by the

assessed which fell within the ambit of section 80G(2) of the Income Tax Act, 1961 for the purpose of rule 1(vii) of the First Schedule to the

Companies (Profits) Surtax Act, 1964 ?

Dispute relates to the assessment years 1976-77 to 1979-80.

2. We have heard the learned counsels for the parties. On perusal of the orders passed by the authorities and the Tribunal, we find that the first

question does not arise out of the order of the Tribunal. Therefore, we decline to answer the question. So far as the second question, which is

essentially a question of law involving no elaborate factual description, is concerned, the decisions in Commissioner of Income Tax Vs. Vazir

Sultan Tobacco Co. Ltd., and Commissioner of Income Tax Vs. Echjay Industries Pvt. Ltd., are applicable. We are in agreement with the views

expressed in the said cases and, Therefore, we answer the second question in the affirmative, in favor of the assessed and against the revenue.

All the four reference applications stand disposed of accordingly.