**(2001) 09 DEL CK 0154**

**Delhi High Court**

**Case No:** Surtax Reference No"s. 1 to 4 of 1985 11 September 2001

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| Commissioner of Income Tax | | APPELLANT |
| | Vs | |
| ESCORTS LTD. | | RESPONDENT |

**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.