

(1991) 04 BOM CK 0093

Bombay High Court

Case No: IT Application No. 88 of 1991

Commissioner of Income Tax

APPELLANT

Vs

Vasant M. Ghatge

RESPONDENT

Date of Decision: April 22, 1991

Acts Referred:

- Income Tax Act, 1961 - Section 17

Hon'ble Judges: T.D. Sugla, J; B.N. Srikrishna, J

Bench: Division Bench

Advocate: Dr. V. Balasubramanian, for the Appellant; S.N. Inamdar, for the Respondent

Judgement

T.D. Sugla, J.

Mr. Inamdar, the learned counsel for the respondent-assessee and Dr. Balasubramanian, the learned counsel for the Revenue, have been heard.

2. The question involved herein pertains to the employer's contribution to the assessee's recognised provident fund. It appears that the annual contribution made by the employer is not more than 10 per cent of the salary of the employee. However, what has happened in this case is that during the earlier three years the employer had not paid its contribution to the credit of the employee. During the year under reference the employer paid not only the annual contribution but also paid the arrear contribution to the credit of the assessee. It is common ground that if the entire amount paid by the employer is taken as the employee's contribution for the year, it exceeds 10 per cent of the salary of the employee.

3. We have been taken through r. 6 of Schedule IV of the Recognised Provident Fund. The expression used in the heading as well as the main part of the rule is "Employer's annual contribution and annual accretion". The expressions "annual contribution" and "annual accretion" obviously mean the accretion or contribution to be made annually. Dr. Balasubramanian's submission is that the employer's contribution has nothing to do with the annual accretion, in our view, is (sic) too

good to be accepted. The language of the rule being clear and unambiguous, we see no good reason for making the rule absolute. Rule is accordingly discharged.

4. No order as to costs.