

(1988) 12 BOM CK 0070

Bombay High Court

Case No: Income-tax Reference No. 291 of 1976

Commissioner of Income Tax

APPELLANT

Vs

Tata Chemicals Ltd.

RESPONDENT

Date of Decision: Dec. 14, 1988

Citation: (1987) 63 CTR 54 : (1990) 186 ITR 433

Hon'ble Judges: T.D. Sugla, J; S.P. Bharucha, J

Bench: Division Bench

Judgement

T.D. Sugla, J.

This reference raises only one question of law at the instance of the Department. The question reads thus :

"Whether the dividend reserve qua ordinary shares and the gratuity reserve were "reserves for the purpose of capital computation", under the Surtax Act of 1964 ?"

2. Counsel are agreed that in view of the Supreme Court's decision in the case of [Vazir Sultan Tobacco Co. Ltd., Hyderabad and Others Vs. Commissioner of Income Tax, Andhra Pradesh, Hyderabad](#), , our answer has to be in the negative and in favour of the Revenue regarding the question pertaining to the dividend reserve. As regards the question pertaining to the gratuity reserve, counsel are agreed that in view of this court's decision in the case of [Goodlass Nerolac Paints Ltd. Vs. Commissioner of Income Tax, Bombay City, Bombay](#), , the question is required to be answered thus : The Appellate Tribunal shall determine the excess, if any, over the known or determinate liability of the assessee in respect of the gratuity and such excess only will be treated as reserve for the purpose of capital computation.

3. The question is so answered.

4. No order as to costs.