

SUPREME COURT OF INDIA

Commissioner of Income-Tax

Vs.

Trustees of H.E.H. Nizam'S Miscellaneous Trust

(D Wadhwa and N S Hedge JJ.)

15.02.2000

ORDER

1. These appeals are by the Revenue against the judgment of the Division Bench of the Andhra Pradesh High Court and pertain to the assessment years 1981-82, 1982-83, 1983-84 and 1984-85. In these appeals, the question which arises for consideration is as under:

Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is justified in directing the Income-tax Officer to allow 7 1/2 per cent, of the net income of the trust after deducting from its total income, the remuneration paid to the trustees as expenditure for administering" the trust under Sections 57(i) and 19(i) of the Income-tax Act, 1961?

2. In CIT v. Trustees of H.E.H. The Nizam's Miscellaneous Trust for the assessment years 1971-72 and 1972-73, the Andhra Pradesh High Court considered this question and stated as under (page 269) :

In our opinion, 7 1/2 per cent, of the net receipts of the income of the trust after deducting from its total income the remuneration paid to the trustees constitutes reasonable expenditure for administering the trust under Sections 57(i) and 19(i) of the Act.

3. This judgment has not been appealed against by the Revenue. Following this judgment, the Appellate Tribunal dismissed the appeal filed by the Revenue. The Appellate Tribunal declined to refer the question to the High Court for its opinion. The High Court also dismissed the reference application filed by the Revenue under Section 256(2) of the Income-tax Act, 1961. Aggrieved, the Revenue has come to this Court.

4. From the question itself it would appear that it is more a question of fact than a question of law. Since the judgment of the Andhra Pradesh High Court for the earlier years reported in CIT v. Trustees of H.E.H. The Nizam's Miscellaneous Trust has not been appealed against by the Revenue, we see no ground to interfere with the judgment of the High Court.

5. These appeals are, therefore, dismissed.

