

SUPREME COURT OF INDIA

Commissioner of Income-tax, Bombay

Vs.

Haribhai Estate Pvt. Ltd.

C.A.Nos.6131-6132 of 1995

(D. P. Wadhwa and M. B. Shah, JJ.)

22.02.2000

ORDER

These appeals are directed against the judgment of the Bombay High Court dated March 12, 1987 refusing the application of the Revenue filed under Section 256(2) of the Income-tax Act, 1961. Earlier the Income-tax Appellate Tribunal had rejected the application of the Revenue filed under Section 256(1) of the Act. The questions pertain to assessment years 1979-80 and 1980-81. The question on which reference was sought are as under :

"Assessment Year 1979-80

1. "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that interest of Rs. 1,09,753/- on fixed deposit interest of Rs. 6,16,356/- on temporary loans and interest of Rs. 9,52,315/- on arrears on sales deposit are to be considered as business income and not income from other sources?"

2. "Whether on the facts and in the circumstances of the case, and in law the Tribunal was right in holding that interest of Rs. 1,09,753/- on fixed deposit, interest of Rs. 6,16,356/- on temporary loans and interest of Rs. 9,52,315/- on arrears of sales deposit are not taxable under the head 'other sources'?"

Assessment Year 1980-81

1. "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the Interest of Rs. 38,483/- on fixed deposit, interest of Rs. 9,03,465/- on temporary loans and interest of Rs. 11,69,621/- on arrears of sales deposits are to be considered as business income and not income from other sources?"

2. "Whether, on the facts and in the circumstances of the case, and in law, the Tribunal was right in holding that interest of Rs. 38,483/- on fixed deposit interest of Rs. 9,03,405/- on temporary loans and interest of Rs. 11,69,621/- on arrears of sales deposit are not taxable under the head 'other sources'?"

2. After hearing learned counsel for the parties, we are of the view that the questions of law do arise from the order of the Income-tax Appellate Tribunal. Accordingly, we direct the Income-tax Appellate Tribunal to draw the statement of case and refer the aforesaid questions of law to the High Court for its opinion.

3. The appeals are allowed. There shall be no order as to costs.

Appeal allowed.