

SUPREME COURT OF INDIA

Commr.of Income Tax

Vs.

Dharmodayam Co.

(S.P.Bharucha, Doraiswamy Raju and Ruma Pal JJ.)

21.11.2000

ORDER

1. The assessment years here involved are 1984-85 and 1985-86. Until the introduction of Section 11 (4-A) into the Income Tax Act, 1961 on 1-4-1984, the case of assessee was governed by the decision of this Court in its own case CIT v. Dharmodayam & Co. Section 11 (4-A) has introduced conditions in the application of sub-sections (1), (2), (3) and (3-A) of Section 11. It does not appear that the Tribunal has applied its mind to these conditions and given findings of fact as to whether or not they are satisfied. Nor has the High Court given due consideration to this aspect. To be able to decide whether the assessee is entitled to the benefit of the exemption under Section 11, it is necessary for the Tribunal to determine whether it satisfies the requirements of Section 11(4-A).

2. Accordingly, the orders of the High Court under challenge and the orders of the Tribunal from which the reference was made are set aside and the matters (ITA No.681/Coch of 1987 and ITA No.264/Coch of 1989) are restored to the file of Income Tax Appellate Tribunal, Cochin to be considered afresh in the light of what

has been stated above.

3. The appeals are allowed accordingly.

4. No orders as to costs.