

Meattles Ltd. vs Commissioner Of Income-Tax on 13 July, 1967

Author: Chief Justice

Bench: Chief Justice

JUDGMENT

K.S. Hegde, C.J.

1. This is a reference under Section 66(1) of Indian Income-tax Act, 1922 (to be hereinafter referred to as the Act). The question of law referred is :

"Whether the aforesaid sum of Rs. 33,150 paid by way of premium under the aforesaid policy is deductible under the provisions of Section 10(2) (xv) of the Indian Income-tax Act, 1922 ? "

2. The material facts of the case are these: Messrs Meattles Limited, Delhi, is a private limited company. Shri B. D. Meattle, the governing director of the company, owns practically all the shares. In reality, it is a one-man concern, as held by the Income-tax Appellate Tribunal. The board of directors of the company, by means of a resolution dated October 29, 1954, resolved as under :

"The Board think it expedient and in the best interest of the company that Shri B. D. Meattle, the governing director of the company, be insured as provided in article 44 of the memorandum of association of the company, both for life and accident to the extent of Rs. 10 lakhs each, and the premiums be paid out of the funds of the company. The policies so effected will be assigned to the company. Further, the governing director is hereby authorised to do the needful in the matter. "

3. Clause 44 of the articles of association of the company authorised the company "to insure the life of any director, or managing director or employee, which is considered essential for the running of the company or its business and to pay the premium therefore out of the funds of the company for the benefits of the company or otherwise." Shri Meattle has not yet assigned the policy in favour of the company.

4. From the material on record, it is not possible to find out the qualifications of Shri Meattle. It is not shown that his services are indispensable to the company. It is true that he is deeply interested in the company as he is the holder of practically all the shares of the company. In fact, it will not be an exaggeration to say that he and the company can be considered as one entity. Beyond that circumstance, there is nothing to show that the continuance of the life of Shri Meattle is of great importance for the business of the company.

5. While considering whether a given case falls within the scope of Section 10(2)(xv), one of the tests to be applied is whether the expenditure or loss is incurred by the assessee in his character, as a trader or whether it is incurred in some other character. If it is incurred in the assessee's character as a trader, then alone would it be deductible as being for the purpose of the business. It is not enough that the expenditure is merely connected with the trade ; it must be really incidental to the trade itself. In order to ascertain whether the expenditure has been incurred wholly or exclusively for the purpose of the business, one must look to the direct concern and direct purpose for which the money is laid out and not to the remoter or indirect results, which may possibly motivate or flow from the expenditure.

6. Before the deduction claimed can be allowed, there must be satisfaction that the expenditure in question is wholly and exclusively laid out or expended for the purpose of the business in question. As mentioned earlier, we are unable to find any direct nexus between the business and the expenditure incurred.

7. As observed by the Supreme Court in Commissioner of Income-tax v. Chari and Chari Ltd., : " The question whether an amount claimed as expenditure was laid out or expended wholly and exclusively for the purpose of the assessee's business, profession or vocation, has to be decided on the facts and in the light of the circumstances of each case. But the final conclusion on the admissibility of an allowance claimed is one of law In considering whether the expenditure to remunerate a person for services rendered is allowable under Section 10(2)(xv), the Income-tax Officer must have regard to all the circumstances, such as the nature and special character of the service, the practice, if any, in the trade for payment of a percentage of profit to an employee in similar circumstances, the qualifications of the employee for rendering the service, the amount, if any, paid by the assessee to another person for rendering similar service, the normalcy of the allowance having regard to the practice in the trade, the existence of any other extraordinary and abnormal circumstances in the arrangement or special reasons or circumstances which may suggest that the transaction was abnormal, and the like." To repeat, no material has been placed before the authorities to show that Shri Meattle had any exceptional qualification, or that the practice in the trade permitted such an investment.

8. In support of the contention that the expenditure in question is deductible under Section 10(2)(xv), the learned counsel for the assessee invited our attention to certain decisions of the English courts. We shall now refer to them. The first decision read to us is that of the Court of Appeal in Inland Revenue Commissioners v. D. H. Williams' Executors, [1943] 11 I.T.R. (Suppl.) 84 at 89. There a limited company took out a policy of insurance in the sum of 15,000 for the benefit of the company, to cover the loss ensuing on the death or injury by accident of a director, whose special qualifications and experience were of value to the company. The director was killed by accident, and the sum assured was paid to the company, which distributed it among the shareholders. The question for decision was whether the receipt in question was a capital receipt or a revenue receipt. Lord Greene M.R. held that that receipt was a revenue receipt. The issue arising in this case was whether the receipt in question was a capital receipt or a revenue receipt. The said decision does not bear on the point of law arising for decision in this case. In fact, in the course of that judgment, the Master of the Rolls observed :

" I do not wish to lay down any general proposition which would lead to the result that the test in the case of payments is necessarily the same as the test in the case of receipts. In the case of payments the question whether they are to be treated as deductible expenses is complicated by the special provisions of the Income-tax Acts, which lay down certain categories of expenditure which are not deductible. But looking at the matter from the broader point of view, on the question whether a particular item of expenditure or a particular item of receipt falls into the category of revenue expenditure or receipt, or capital expenditure or receipt, I think assistance is to be obtained from examination of cases which have dealt with the question of expenditure. "

9. From these observations, it is clear that the decision in question is of no assistance for the purpose of deciding whether the expenditure in question is one that falls within the scope of Section 10(2) (xv).

10. The next decision to which reference was made by the learned counsel for the assessee was *Gray and Co. Ltd. v. Murphy*, *Inland Revenue Commissioners v. D. H. Williams' Executors*, (1940) 23 Tax Cas. 225; [1941] 9 I.T.R. (Suppl.) 1. That decision reiterated the principle of law enunciated in *Williams' Executors' case*, already referred to. That decision is also of no assistance for our present purpose.

11. Lastly, our attention was invited to the decision of the Supreme Court in *Commissioner of Income-tax v. Royal Calcutta Turf Club*, . Therein, the Supreme Court laid down that " any expenditure which was incurred for preventing the extinction of the assessee's business would be expenditure wholly and exclusively laid out for the purpose of the business of the asses-see and would be an allowable deduction. " We do not think that the ratio of that decision bears on the point under consideration.

12. For the reasons mentioned above, we answer the question referred to us in favour of the department. The assessee to pay the costs of this reference. Advocate's fee Rs. 250.