

## **Mahant Raghubar Prasad vs Commissioner Of Income-Tax, U. P., ... on 14 April, 1954**

### **Equivalent citations: [1954]26ITR118(ALL)**

#### **JUDGMENT**

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

"Whether, in the circumstances of the case, the income received by the applicant from bhents was exempt from taxation under Section 4(3) (i) or 4 (3) (ii) of the Income-tax ?"

The assessee is a Mahant of a temple at Ayodhya known as Barasthan. He was appointed Mahant under a deed of trust dated the 23rd of November, 1922. Clause 9 of this deed of trust runs as follows :-

"A Mahant gets voluntary Puja offerings in two ways - one on account of his being Mahant of the gaddi and the second he gets are offerings made of the deity. Consequently, the managing Mahant shall have full control over the first kind of income. He can himself spend this income without the consent of the managing committee subject to this condition that he shall not spend this income against his position as a Mahant and it should not be spent against the tenets of the Virakt religion (Virakt means one who renounces the world for higher spiritual religious attainment). After the death of the Mahant, the residue of this income, if any, will be deemed to be the income of the trust."

The Income-tax Officer claimed that the offerings made to the Mahant, which he could utilise for his purposes, was taxable income. On behalf of the assessee, however, exemption was claimed under Section 4 (3) (i) and (ii), the relevant portion of which is as follows :-

"4. (3) Any income, profits or gains falling within the following classes shall not be included in the total income of the person receiving them :

(i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the applied, or finally set apart for application, thereto.

(ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes."

Learned counsel does not claim that the case falls under Section 4 (3) (i). He has, however, relied on

Section 4 (3) (ii) and has urged that the income was applicable solely to religious or charitable purposes. We are not satisfied that the income could be said to be applicable solely to religious purposes. The bhents or offerings to the Mahant were completely at his disposal and he could utilise them for any purpose he liked so long as that purpose was not contrary to the tenets of the Virakt religion or against his position as a Mahant. In the circumstances, it cannot be urged that the income was applicable solely to religious and charitable purposes.

Our answer to the reference, therefore, is in the negative. The assessee must pay costs to the other side which we assess at Rs. 300.

Reference answered in the negative.