

Commr. Of Income-Tax, Bombay South, ... vs Kirloskar Bros. Ltd. on 19 April, 1954

Equivalent citations: AIR1954SC504, [1954]24COMPCAS537(SC), [1954]25ITR547(SC), AIR 1954 SUPREME COURT 504

JUDGMENT

Das, J.

1. The question referred by the Income-tax Appellate Tribunal for the opinion of the Bombay High Court was as follows :-

"Whether on the facts of the case, income, profits and gains in respect of sales made to Government of India was received in British India within the meaning of Section 4(1) of the Act ?"

2. The High Court answered the question in the negative for reasons set out in its judgment covering this case as well as the case out of which Appeal No. 19 of 1953 came to be filed before us.

3. The facts, found in this case, are similar to those found in Civil Appeal No. 19 of 1953 Commissioner of Income-tax, Bombay v. Messrs, Ogale Glass Works Ltd., except in the following particulars :

(1) that all cheques were made non-negotiable, (2) that no credit was given by the bank to the assessee before collection, (3) that there was no finding that the assessee gave credit to the Government for the amount of the cheque immediately on receipt thereof.

4. Learned counsel on either side did not suggest that the differences noted above would make any difference in the answer to the referred question which is the same as in the other appeal. That being the position, this case is governed by the judgment which has just been pronounced by us in the other appeal. We accordingly allow the appeal and answer the referred question in the affirmative. For reason similar to those referred to in our judgment in that appeal each party must bear and pay his or its own costs both in this Court and in the High Court.

5. Appeal allowed.