Karamchari Union, Agra vs Union Of India & Ors on 29 February, 2000

Equivalent citations: AIR 2000 SUPREME COURT 1226, 2000 AIR SCW 806, 2000 ALL. L. J. 711, 2000 TAX. L. R. 380, (2000) 2 JT 493 (SC), 2001 (1) SERVLJ 92 SC, (2000) 101 TAXMAN 1, (2000) 2 KER LT 58, 2000 (1) LRI 975, 2000 (3) SCC 335, 2000 (2) JT 493, 2000 (3) SRJ 336, (2000) 2 LABLJ 603, (2000) 243 ITR 143, (2000) 159 CURTAXREP 148, (2000) 96 FJR 512, (2000) 2 ESC 1300, (2000) 2 SCALE 161, (2001) 160 TAXATION 410, (2000) 2 SUPREME 272, (2000) 2 SCT 1, 2000 LABLR 697, (2000) 1 RAJ LW 146

Bench: M.B.Shah, D.P.Wadhwa

PETITIONER:
KARAMCHARI UNION, AGRA

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 29/02/2000

BENCH:
M.B.Shah, D.P.Wadhwa

JUDGMENT:

Shah, J.

Leave granted in special leave petitions.

Civil Appeal No.1843 of 1989 & C.A. NO. OF 2000 SLP(C) No. 15477-80 of 1988:

> The Appellants, in C.A.No.1843 of 1989, are all employees of the 509 Army Base Workshop, Agra, working in different offices and governed by the Rules framed by the Government. Apart from their salary and other perquisites they are getting compensatory allowance in the form of City Compensatory Allowance (hereinafter referred to as CCA), Dearness Allowance (hereinafter referred to as DA) and House Rent Allowance (hereinafter referred to as HRA). Appellants filed Civil Misc. Petition No.470/98 in the Allahabad High Court challenging the inclusion of DA, HRA & CCA paid to them in their income for the purpose of Income Tax. Various other petitions

raising similar contentions were filed by the central government employees, employees of central government undertakings, bank employees, state government employees and general insurance employees. One such petition is before us being Civil Appeal No. of 2000 S.L.P.(C) Nos.15477-80 of 1988 disputing the taxability of various allowances, namely, D.A., CCA, HRA, Leave encashment, linked with leave, travel concession, running allowance, night allowance, etc. All the writ petitions were disposed of by common judgment and order dated 12.9.1988 by the High Court of Allahabad.

The question for consideration before the High Court was - whether the receipts on account of CCA, HRA and DA are in the nature of income entailing tax liability? Before deciding the above question, the Court considered the legislative intent behind the passing of relevant section 17 which defines salary, and the addition of Explanation to sub-section (14) of Section 10. The High Court dismissed the writ petitions holding inter alia that: (1) the Income Tax, 1961 is a self contained code to judge the taxability of a particular receipt and the taxability of D.A., H.R.A. and CCA will have to be seen only within the scheme of the Act. That HRA, CCA and DA are not the reimbursements of necessary disbursements. It is only for determination of CCA that the Central Govt. will take care that grant of compensatory allowance does not become a source of profit to the employees, but it does not mean that the allowance in the nature of HRA, CCA and DA do not amount to an advantage. The allowances are surely in addition to pay. (2) The tuition fees reimbursement is fully covered by S.17(3)(ii), and the payment is not covered by any of the clauses of Section 10. (3) The leave encashment linked with leave travel concession is taxable, being the profits in lieu of salary within the meaning of section 17(3)(ii). (4) The running allowance and night allowance come to the employees as an advantage by virtue of their employment. They are, therefore, perquisite within the meaning of s.17(I)(iv) read with s.17(2) and hence are taxable under the head salaries under s.14, read with s.17.

The Court held that any type of reimbursement is fully covered by Section 17(3)(ii) of the Income Tax Act, 1961 (hereinafter referred to as the Act) inasmuch as the payment is not covered by any of the clauses of Section 10 as mentioned in parenthetical clause of Section 17(3)(ii). The Court, therefore, held that CCA, HRA and D.A. would be taxable income.

Civil Appeal Nos.1784-86 of 1988.

These appeals are filed by the Commissioner of Income Tax, West Bengal-II, Calcutta against the judgment and order dated 24th July, 1987 of the High Court of Calcutta passed in Income-tax Reference No.97 of 1977 holding that the CCA paid to the assessee did not have the character of income within the meaning and scheme of the Income Tax Act, 1961. Following three questions were referred to the High Court by the Tribunal for decision: -

1. Whether, on the facts and in the circumstances of the case the Tribunal was right in holding that C.C.A. cannot come within the charging sections and/or within the meaning of income of a Government Servant in accordance with Section 2(24) of the Income Tax Act, 1961 read with the Fundamental Rules and cannot come within the ambit of meaning of total income as contained in

section 2(45) of the Act? 2. Whether on the facts and in the circumstances of the case when the assessees case cannot come within the provisions of sections 15 and 17 of the Act, the Tribunal was right in not considering the applicability of the provisions of section 16(v) of the Act? 3. Whether on the facts and in the circumstances of the case upto the assessment year 1974-75 because of the deletion of section 16(v) of the Act with effect from Ist April, 1975 C.C.A. could be allowed as an admissible deduction under Section 16(v) of the Act.

It was contended before the High Court that the amount received by way of CCA cannot be included in the total income of the assessee inasmuch as the same was receivable by him by virtue of the Fundamental Rules which govern the terms and conditions of service of a Government employee. The Fundamental Rules indicate that CCA is given not as a source of profit or gain. In support of this submission counsel relied upon the decisions in Commissioner of Income Tax, Bombay City-I v. D.R. Pathak 99 ITR 14; Bishambar Dayal v Commissioner of Income Tax, MP 103 ITR 813 and Commissioner of Income Tax, Gujarat v. S.G. Pgnotale 124 ITR 391. It was also contended that the assessee is entitled to claim exemption in respect of CCA under Section 10(14) of the Income Tax Act and in any case, CCA cannot come either within the scope of salary or within the definition of special allowance or perquisite. Hence, it cannot be termed as income and cannot be included within the total income and cannot be assessed to tax as per sections 4 and 5 of the Income Tax Act.

After a careful consideration of the facts, the High Court held that C.C.A. paid to the assessee was neither an emolument nor a fee nor a profit nor perquisite but was only a payment for part reimbursement of the extra expenses incurred by the assessee as of necessity by reason of his posting. The said allowance does not have the character of income within the meaning and scheme of the Income Tax Act, 1961. This is not an allowance granted to the assessee specifically to meet his personal expenses, but it is an allowance meant for part reimbursement of the extra expenditure necessarily to be incurred by him as a result of his being posted in a city. Amount paid to the assessee on account of this allowance does not come within the definition of income or total income nor within the purview of the computation or charging sections under the Income Tax Act, 1961. The High Court answered Question Nos.1 and 2 in the affirmative and in favour of the assessee. In view of answers to the said questions, the High Court did not consider it necessary to answer question no.3.

C.A. Nos.6054/94 and 6058/94.

Respondents-employees of the L.I.C. and G.I.C. filed petitions under Article 226 of the Constitution before the High Court of Calcutta in Matter No. nil of 1988 praying inter alia for issue of a writ or order directing the appellants herein not to treat CCA paid and payable to the employees of the appellants-Companies as their taxable income and not to deduct income tax at source on CCA paid to them. The High Court by order dated 21.3.1988 following an earlier decision given by it on 17.3.1988 in Syndicate bank Officers Association and Others vs. Union of India and Others allowed the writ petitions and passed an order restraining the appellants-Companies and other Insurance Companies from deducting any tax on C.C.A. or any allowance in the nature of CCA. in computing taxable income of the employees for the year 1987-88 onwards. Hence, these appeals by special leave are filed by the Corporations.

Whether CCA, HRA or other such payment to the employee is covered by the word income as defined under the Act?

In all these appeals it is conceded that in view of the amendment of clause (24) of Section 2 of the Act, it would be difficult to say that the amount received as CCA or HRA would not be covered by the inclusive definition of the word income. Relevant clauses of Section 2(24) read as under: -

2(24) Income includes (i) to (iii) (iiia) any special allowance or benefit, other than perquisite included under sub-clause (iii), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

(iiib) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living..

The said clauses are added by Director Tax Laws (Amendment) Act, 1989, w.e.f. 1.4.1962. In C.I.T., Calcutta v. R.R. Bajoria (1988) 169 ITR 162, the Calcutta High Court considered this argument in detail and arrived at the conclusion that considering Rule 44 of Fundamental Rules applicable to the Central Government employees, CCA paid to them is neither an emolument nor a fee nor a profit nor even a perquisite but was only a payment for part of the reimbursement of the extra expenses incurred by the assessee as of necessity by reason of his posting. The Court observed the said allowance does not have the character of income within the meaning and scheme of the Income-tax Act, 1961. This is not an allowance granted to the assessee specifically to meet his personal expenses but it is an allowance meant for part reimbursement of the assessee for the extra expenditure necessarily to be incurred by him as a result of his being posted in a city.

In view of the afore-quoted amendment of the word income, any special allowance or benefit specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the purpose of the duties of an office would be included in the word income. It has also been pointed out that under sub-clause (iii b) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office are ordinarily performed by him or a place where he ordinarily resides or to compensate him for the increased cost of living is also to be included in income. Therefore, it is conceded that the payment of HRA or CCA, would be covered by the word income. Hence, the basis of the decision rendered by the Calcutta High Court would not survive.

Whether such amount is taxable?

Once it is conceded that receipt of such amount is income of the assessee, the only question would be whether it is taxable under the head salary. For that purpose, we have to refer to Section 17 of the Act to find out as to what meaning can be given to the phrase profits in lieu of salary. For appreciating the contentions raised by the learned counsel for the parties, we would straightway refer to the relevant part of Section 17 of the Act, which is as under: -

17. For the purposes of sections 15 and 16 and of this section (1) Salary includes

(i) wages; (ii) any annuity or pension; (iii) any gratuity; (iv) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;

(iv) any advance of salary; {(va) any payment received by an employee in respect of any period of leave not availed of by him;} (v) the annual accretion of the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under rule 6 of Part A of the Fourth Schedule; and (vi) the aggregate of all sums that are comprised in the transferred balance as referred to in sub-rule (2) of Rule 11 of Part A of the Fourth Schedule of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof; (2) Perquisites include (3) Profits in lieu of salary includes

(i) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

(ii) any payment (other than any payment referred to in clause (10) [clause (10A], [clause 10(B)], clause (11), [clause 12) [clause (13) or clause (13A] of section 10), due to or received by an assessee from an employer or a former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or [interest on such contributions or any sum received under the Keyman insurance policy including the sum allocated by way of bonus on such policy Explanation. For the purposes of this sub-clause, the expression Keyman insurance policy shall have the meaning assigned to it in clause (10D) of section 10.] Reading of sub-section (1) of Section 17 of the Act makes it abundantly clear that the word salary is given exhaustive meaning as stated in clauses (i) to (vii). The inclusive definition of the word salary given in Section 17 provides that apart from salary received by the employee, it includes wages, any annuity or pension, any gratuity, any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages, any advance of salary, any payment received by an employee in respect of any period of leave not availed by him and other payments mentioned in clauses (va), (vi) and (vii). These clauses (i) to (vii) of sub- section (1) indicate that Legislature intended to include in salary the specified or named amount paid to the employee in respect of services rendered by him. Clause

(iv) of sub-section (1) provides inclusion of four types of payments in the word salary (i) fees (ii) commissions

(iii) perquisites and (iv) profits in lieu of or in addition to salary. In common parlance, fees, commissions, perquisites or payments of profits in lieu of salary may not be considered to be salary. But by this inclusive definition, it has been provided so. After giving this exhaustive definition of the word salary, further inclusive definition is given to the word perquisite, with which we are not concerned in these appeals. Thereafter, sub-section (3) provides for inclusive definition of the phrase profits in lieu of salary. Clause (i) of sub-section (3) inter alia includes the amount of any compensation received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto. Inclusion of this amount of compensation has direct connection with the employment or terms and conditions relating thereto. In the context of the aforesaid sub- sections (1), (2) and (3),

appropriate meaning to the words and phraseography used in clause (ii) is to be given.

It has been contended by the learned counsel for the Revenue that clause (ii) of sub-section (3), inter alia, provides that profits in lieu of salary includes any payment received by an assessee from an employer. He, therefore, submitted that City Compensatory Allowance (CCA), House Rent Allowance (HRA) and Dearness Allowance (DA) would be covered by clause (ii) of sub-section (3). Learned counsel submitted that salary includes profits in lieu of salary and profits in lieu of salary includes any payment received by the assessee from the employer except which are excluded.

As against this, the learned counsel for the assessee submitted that the contention raised by the Revenue is without any substance. If any payment de hors the profits was to be included then Legislature would not have given such exhaustive definition of the word salary and thereafter would not have given further meanings to the word perquisite and the phrase profits in lieu of salary. Legislature, without anything more, could have easily provided that salary would include any payment due to or received by an assessee from an employer except the payments which are exempted under the Act. The contention is, if the Legislature wanted to include any payment received by the employee in its widest sense, there was no necessity to give such an exhaustive definition of the word salary in Section 17 of the Act and to connect it with profits in lieu of salary. If such a simple definition that salary includes any payment received by the employee from the employer was intended to be given, the legislature would not have given inclusive meaning to the expression profits in lieu of salary and the phrase any payment received by the employee would be sufficient for all the purposes. Further the legislature could have easily avoided giving of not only such exhaustive definition but number of amendments and additions to the said section. The learned counsel for the appellant further made it clear that for D.A., he is not pressing the contention that it is not included in the word salary. He submitted that C.C.A. and H.R.A. cannot be included in the word salary as defined under Section 17 of the Act.

Hence, the question would be, what does the expression profits in lieu of salary signify? Whether profits in lieu of salary would include any payment received from the employer relatable to or out of profits or it has nothing to do with the profits as understood in common parlance? Or whether profits is to be understood as any gain or advantage in lieu of salary or in addition to salary for which any payment is received by the assessee It is submitted that salary includes any payment out of profit in lieu of salary. Instead of salary any amount is paid in terms of profits, then the same is included in salary as it is profits in lieu of salary. The basis for payment of such amount is profits. So the expression any amount received by the employee is relatable to the profits of employer and that payment out of profit is considered to be the salary by inclusive definition. Reference is made to Earl Jowitts The Dictionary of English Law which mentions profit asan arrangement whereby an employer agrees that his employees shall receive a share, fixed before hand, in the profits of the undertaking. Hence, it is submitted that payment received by the employee should be relatable to profits and whatever amount is paid to an employee - is paid in lieu of salary out of profits. Instead of paying salary, if percentage out of the profits is paid by the employer, it would be included in the word salary and it would be considered to be profits in lieu of salary. It may be in addition to the salary or only profits in lieu of salary. It is contended that this would be the natural meaning of the phrase profits in lieu of salary and in the present case as there is no question of payment of C.C.A. or

H.R.A. out of profits earned by the Government or statutory corporations, receipt of such amount would not be covered by the phrase profit in lieu of salary'.

For this purpose, it is submitted that the word profits is not defined, but Section 28 of the Act provides that the income mentioned therein shall be chargeable to income tax under the head of profits and gains of business or profession and hence, the word profits is to be understood under the Act in its natural and proper sense and as understood since years in commercial terms. Reliance is placed on the following passage referred to by the Privy Council in Pondicherry Railway Co. Ltd. Vs. Commissioner of Income-tax, Madras (Reported in A.I.R. 1931 Privy Council 165) dealing with the word profits under the Income Tax Act. The Privy Council relied upon the principle laid down by Lord Chancellor Halsburry in Gresham Life Assurance Society V. Styles by stating that it is of general application unaffected by the specialities of the English tax system, existing as under: -

The thing to be taxed, said his Lordship, is the amount of profits or gains. The word profits I think is to be understood in the natural and proper sensein a sense which no commercial man would misunderstand. But when once an individual or a company has in that proper sense ascertained, what are the profits of his business or his trade, the destination of those profits or the charge which has been made on those profits by previous agreement or otherwise is perfectly immaterial. The tax is payable upon the profits realized and the meaning to my mind is rendered plain by the words payable out of profits. (emphasis supplied) Further, the meaning of the word profit as given in Blacks Law Dictionary is as under: - Profit. Most commonly, the gross proceeds of a business transaction less the costs of the transaction; i.e. net proceeds. Excess of revenues over expenses for a transaction; sometimes used synonymously with net income for the period. Gain realized from business or investment over and above expenditures.

Profit means accession of good, valuable results, useful consequences, avail, gain, as an office of profit, excess of returns over expenditures or excess of income over expenditure. U.S. v. Mintzes, D.C.Md., 304 F.Supp. 1305, 1312.

The benefit, advantage, or pecuniary gain accruing to the owner or occupant of land from its actual use; as in the familiar phrase rents, issues and profits, or in the expression mesne profits.

Profit-sharing plan. A plan established and maintained by an employer to provide for the participation in the profits of the company by the employees or their beneficiaries. In order to qualify for tax benefits, the plan must provide a definite predetermined formula for allocating the contributions made to the plan among the participants and for distributing the funds accumulated under the plan after a fixed number of years, the attainment of a stated age, or upon the prior occurrence of some event such as layoff, illness, disability, retirement, death, or severance of employment. Such plans are regulated by the federal Employee Retirement Income Security Act (ERISA). See also Employee Stock Ownership Plan (ESOP).

Qualified profit sharing plan. An employer-sponsored plan that meets the requirements of I.R.C. 401. If these requirements are met, none of the employers contribution to the plan will be taxed to the employee until distributed to him or her (402). The employer will be allowed a deduction in the

year the contributions are made. (404) It is submitted that similar should be the interpretation of Section 17(1)(iv) read with sub-section 3(ii) of the Act. This clause is for taxing salary payable out of the profits realized by the employer and the said meaning is rendered plain by the words profits in lieu of salary. Foundation of any such payment is the profits. It is, therefore, submitted that the result would be salary includes profits in lieu of salary, which includes any payment, but such payment should have connection with or referable to profits of the employer.

The learned counsel for the assessee further submitted that the Legislature in sub-sections (1), (2) and (3) of s. 17 has used the word includes to give wider meaning than natural meaning which is given to the said word or phrase and, therefore, the definition given by the Legislature is to be accepted as it is without any further enlargement. It is contended that the word include is generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used, these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import but also those things which the interpretation clause declares that they shall include. The learned counsel referred to The Regional Director, Employees state Insurance Corporation vs. M/s High Land Coffee Works of P.F.X. Saldanha & Sons and another, [AIR 1992 SC 129] wherein this Court considered the inclusive definition of the word seasonal factory given under Section 2(12) of the Employees State Insurance Act, 1948 and held that what is included in the meaning of seasonal factory is a factory which is engaged for the purpose mentioned therein. That is to say, it is first a factory and then it would be considered to be a seasonal factory. Relying on the aforesaid observations, learned counsel for the employees submitted that by the inclusive definition of the phrase profits in lieu of salary what is included is any payment which must be out of the profits i.e. sharing of the profits by the employer. For this purpose, he further referred to the words any fee, commission, perquisites or profits used in clause (17)(1)(iv) and pointed out that in the inclusive definition the Legislature wanted to include fee, commission or perquisites which normally cannot be included in the word salary by specifically mentioning the same. It is also submitted that similarly what is included in the word salary is only profits in lieu of salary. Therefore, any payment received by the employee from the employer would have limited meaning and is referable to only payments received out of profits.

As against this, learned counsel for the Revenue submitted that salary includes profits in lieu of salary which in turn includes any payment received by an assessee from an employer. The word profits is to be given its plain meaning to mean any benefit, advantage or pecuniary gain accruing to the assessee. Therefore any payment received by an assessee from an employer would be profits in lieu of salary or in addition to salary. For the purpose of income tax, even if the payment is made towards the additional expenses incurred by the employee for the purpose of service, yet it is taxable income, unless there is an exemption as provided under different clauses of Section 10.

In our view, even though there is much substance in the contentions raised by the learned counsel for the assessee yet it is to be stated that the Act is a self-contained Code and the taxability of the receipt of any amount or allowance is to be determined on the basis of meaning given to the words or phrases in the Act. Section 2(24) of the Act gives wide inclusive definition to the word income. Similarly, for levying tax on salary income, exhaustive definition is given under Section 17, which includes perquisites and profits in lieu of salary. Only exclusion provided under sub-section 3 is any

payment referable to clause (10) [clause (10A], [clause 10(B)], clause (11), clause (12), clause (13) or [clause (13A)] of section 10. In view of this specific inclusion and exclusion in the meaning of the word income and salary, it is rightly submitted that payment received by the assessee has no connection with the profits of the employer. The word profits is used only to convey any advantage or gain by receipt of any payment by the employee.

Websters Comprehensive Dictionary gives meaning of the word profit inter alia to mean advantage or benefit. It states:

> ProfitSynonyms: advantage, avail, benefit, emolument, expediency, gain, good, improvement, proceeds, receipts, return, returns, service, utility, value Advantage is that which gives one a vantage ground, either for coping with competitors or with difficulties, needs, or demands; as, to have the advantage of a good education; it is frequently used to what one has beyond another or secures at the expense of another; as, to have the advantage in argument, or to take advantage in a bargain.
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> Applying the aforesaid general meaning of the word profits and considering the dictionary meaning given to it under Section (17)(1)(iv) and 3 (ii), it can be said that advantage in terms of payment of money received by the employee from the employer in relation or in addition to any salary or wages would be covered by the inclusive definition of the word salary. Because of the inclusive meaning given to the phrase profits in lieu of salary would include any payment due to or received by an assessee from an employer, even though it has no connection with the profits of the employer. It is true that Legislature might have avoided giving of inclusive meaning to the word salary by stating that any payment received by the employee from an employer would be considered to be salary except the payments which are excluded by Section 17(3)(ii) i.e. clauses (10), (10A), (10B), (11), (12), (13) or (13A) of Section 10. However, it is for the Legislature to decide the same. This would not mean that by giving exhaustive and inclusive meaning, the word profits can be given a meaning only when it pertains to sharing of profits by the employer. For the assessee, the receipt of such amount would be a profit, gain or advantage in addition to salary, even though it is not named as salary. Therefore, the word profits in context is required to be understood as gain or advantage to the assessee. Hence, it is not possible to accept the contention of the learned counsel for the employees that as the CCA amount is paid to meet the additional expenditure as contemplated by the statutory Service Rules, it cannot be said to be profit, gain or additional salary. Under the Act, such receipt of the amount as conceded is covered by the definition of the word income and as provided it would be in addition to salary. Hence, it would be part and parcel of income by way of salary, which would be taxable one. Learned counsel for the appellant further submitted that assuming for the purpose of profits in lieu of salary, employer is not required to give any share out of the profits, yet even in the hands of the employees, receipt of the amount must be profits. It is his contention that whatever CCA, Government or Statutory Corporations pay to the employees, cannot be termed as profits by any standard because the amount is calculated in such a

manner that it reimburses less than extra cost incurred by them at a station where they are posted. It is further submitted that by including these payments as taxable, it would cause hardship to the honest employees whose source of income is limited and are required to meet extra expenses at the station where they are transferred and posted for which service rules provide for reimbursement of extra cost. He referred to the decision rendered by the Bombay High Court in C.I.T. v. D.R. Pathak (1975) 99 ITR 14, wherein the Court considered whether CCA was taxable as perquisite as contended by the revenue. The Court negatived it by holding that payment of taxable allowance under the order of the Government is neither an emolument nor fee nor profit, but it is a reimbursement of personal expenses required by the Government servant to be incurred on account of expenses of living at a particular place.

May be that this is true to the extent that Government or statutory corporations do pay something less than what is required to be reimbursed and the receipt of CCA can not be termed as profit in common parlance. However, for income, salary and its taxability under the Act, the dictionary meaning given by the Legislature is to be taken into consideration as for that purpose, it is a complete code. Income tax is attracted at the point when the income is earned. Taxation of income is not dependent upon its destination or the manner of its utilisation. [Re:

Tuticorin Alkali Chemicals & Fertilizers Ltd. Madras vs. Commissioner of Income Tax, Madras (1997) 6 SCC 117]. Therefore, there is no question of referring to the Fundamental Rules framed by the Central Government or by the statutory authorities for payment of CCA, HRA or other such allowance for reimbursing the expenditure incurred by the employees. Further, equity or hardship would hardly be relevant ground for interpretation of tax law. It is for the Government or the statutory bodies to do the needful. However, equitable it may be that CCA cannot be held to be profit in the hands of the assessee or it is not share out of profit, yet it cannot be helped in view of inclusive and exclusive meaning given under the Act.

In the result, we hold that DA, CCA and HRA would be taxable income. Since, counsel for the employees did not make any submission with regard to other allowances like, night allowance, tuition fee, leave encashment linked with leave travel concession, running allowance etc. we do not pass any order with regard to those allowances.

Accordingly, Civil Appeal Nos.1784-86 of 1988, 6054/94 and 6058/94 filed by the Revenue and General Insurance Corporation and others respectively are allowed and Civil Appeal No. 1843/89 and C.A. No._____of 2000 SLP(C) No.15477-80 of 1988 filed by Karamchari Union, Agra and All India Defence Accounts Association, Poona and others respectively are dismissed. There shall be no order as to costs.