**Cit Vs. Deversons (P) Ltd.**

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**SooperKanoon Citation** : sooperkanoon.com/748212

**Court** : Gujarat

**Decided On :** Jul-03-2002

**Reported in** : [2002]124TAXMAN472(Guj)

**Appeal No.** : IT Reference No. 193 of 1989 3 July 2002

**Appellant** : Cit

**Respondent** : Deversons (P) Ltd.

**Advocate for Pet/Ap.** : Mrs. Mona Bhatt, *for the Applicant*

**Judgement** :

**M.S. Shah, J.**

In this reference at the instance of the revenue, the following question is referred for our opinion in respect of the assessment year 1984-85 :

'Whether the Tribunal was right in law and on facts in deleting the addition of Rs. 1,89,229 on account of 'export cash assistance' treating the same as a capital receipt ?'

2. Heard Mrs. Mona Bhatt, the learned standing counsel for the applicant-revenue. Though served, none appears for the respondent-assessee.

3. The learned counsel for the revenue has invited our attention to the provisions of section 28(iiib) of the Income Tax Act, 1961 and submitted that in view of the aforesaid clause inserted by the Finance Act, 1990 with retrospective effect from 1-4-1967, the amount of export cash assistance received by the assessee was a revenue receipt and, therefore, liable to be taxed.

4. Clause (iiib) of section 28 inserted with retrospective effect from 1-4-1967 reads as under :

'Profits and gains of business or profession.The following income shall be chargeable to income-tax under the head 'Profits and gains of business or profession'

(i) to (iiia)******

(iiib) cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India.'

In view of the aforesaid legislative amendment with retrospective effect, there can be no scope for any controversy and it has to be held that the export cash assistance received by the assessee was a revenue receipt.

5. In view of the above discussion, our answer to the question is in the negative, i.e., in favour of the revenue and against the assessee.

6. The reference, accordingly, stands disposed of with no order as to costs.