

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN**

26.05.2015

Mr H Kharmih, learned counsel, appears for the applicants.

Mr ND Chullai, learned senior GA, represents the State respondents.

Mr A Khan, learned counsel, is for the private respondents.

There is a request by Mr H Kharmih, learned counsel, on behalf of Dr ODV Ladia, learned senior Advocate, for adjournment on the ground that Mr Ladia is unwell and is on sanctioned leave.

List the matter on 03.06.2015.

JUDGE

CHIEF JUSTICE

dev

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

26.05.2015

Mr. V.K. Jindal, learned senior counsel, assisted by Ms. Q.B. Lamare, learned counsel, appears for the petitioners.

Mr. S. Sharma and Mr. S.D. Upadhaya, learned counsel, represent the respondents.

We have heard learned counsel for parties and perused the pleadings of writ petition. The first question that may require answer from the respondents is as to under what authority of law the income tax deduction at source was carried out by the taxing authority from the bank deposits of the local tribal population of Meghalaya when it is exempted from the payment of income tax. Another similar question that may also require answer is that even if the substantial part of the amount, namely, Rs. 2,10,78,429/- out of deducted amount of Rs. 2,24,07,941/- was refunded to the Bank still the fact remains that it was done only after the lapse of over 10 years and in that case, as to why the interest on that money has not been paid ? And the last but the most significant is as to what action should the court direct the competent authorities to take against the departments concerned for carrying out such deductions without, as alleged, the application of mind ? At this stage, however, Mr. Sanjay Sharma, learned counsel for Income Tax Department submits that there are certain conditions prescribed for grant of benefits of exemption to the local tribal population of the state. According to him, one of such conditions is the domicile of tribal area in question. Therefore, all such persons who were, are, or have been staying in the European Ward of Shillong, that is admittedly earmarked as non-tribal area for the settlement

of mixed and general population and have earned or are earning income from the sources situated therein shall not be exempted from the payment of income tax. Mr. R. Deb Nath, learned Central Government counsel present in Court while contradicting Mr Sharma voluntarily intervenes in the matter and informs that this issue has already been settled by the judgment of Hon'ble the Apex Court but the same is not readily available with him. He undertakes to provide a copy thereof on the subsequent dates of hearing. According to him, the tribal population irrespective their stay in the European Ward of Shillong, is exempted from the payment of income tax.

On the other hand, Mr. V.K. Jindal, learned senior counsel, appearing for the petitioners states that to the best of his memory, by the judgment under reference, no person who is staying in the European Ward and earning income from the sources situated therein is exempted from the payment of income tax. As the aforesaid judgment of Hon'ble the Apex Court is not readily available, on the request made by learned counsel for parties, we adjourn the matter to 16.06.2015 for arguments.

JUDGE

CHIEF JUSTICE

Sylvana