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removal. The same view has been taken in *Jagadish Mitter* v. *Union of India*(1)

We are therefore of opinion that on the facts of this case it cannot be said that the order by which the appellants, services were terminated under r. 5 was an order inflicting the punishment of dismissal or removal to which Art. 311(2) applied. It was in our opinion an order which was justified under r. 5 of the rules and the appellant was not entitled to the protection of Art. 311(2) in the circumstances. The appeal therefore fails and is hereby dismissed. In the circumstances we pass no order as to costs.

Appeal dismissed.

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October 23

THE MAHALAXMI MILLS LTD.

v.

THE COMMISSIONER OF INCOME-TAX, BOMBAY

(And connected appeals)

(A. K. SARKAR, M. HIDAYATULLAH AND K. C. DAS GUPTA JJ.)

Income Tax—Depreciation—Computation of written down value—Deduction of depreciation in earlier years—Scope—Saurashtra Income Tax Ordinance, 1949, *s.* 13(5) (*b*)—*Taxation Laws* (*Part B States*) (*Removal of Difficulties*) *Order*, 1950, *para* 2—*Indian Income Tax Act*, 1922 (11 *of* 1922), *s.* 10(5) (*b*).

The assessees were carrying on business in Bhavnagar which was formerly an Indian State. In 1948 Bhavnagar became part of the United State of Saurashtra and on March 16, 1949 the Saurashtra Income-tax Ordinance was promulgated. For the purpose of calculating the depreciation allowance to which the assessees were entitled in computing the profits or gains of the business, the written down value of the building, machinery etc., had to be ascertained in accordance with the provisions of the Ordinance. Section 13(5) (b) of the Ordinance provided that "the written down value meant, in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed to him under this Ordinance or..... which would have been allowed to him if the Indian Income-tax

(1) A.I.R. 1964 S.C. 449.

Act, 1922, was in force in the past". For the assessment year 1949-50, as the assets of the assessees had been acquired before the previous year, the Income-tax Officer, in ascertaining the written down value, deducted the depreciation which would have been allowable under the Indian Income-tax Act, 1922, if it had been in force and a claim had been made supported by the prescribed particulars. The assessees claimed that on the wording of it s. 13(5) (b) of the Ordinance did not enable the Income-tax Officer to make the deduction, as, in fact, no claim was made or could be made for such allowance.

For the assessment year 1951-52, as by that time Saurashtra had become a Part B State of the Union of India and the Indian Income-tax Act, 1922 had been extended to it, the Income-tax Officer, applied the provisions of s. 10(5) (b) of the Indian Income-tax Act read with para 2 of the Taxation Laws (Part B States) (Removal of Difficulties) Order, 1950, while computing the written down value and deducted not only the depreciation allowed in the assessment year 1950-51 under the Indian Income-tax Act and the depreciation allowed in the assessment year 1949-50 under the Saurashtra Income-tax Ordinance but also the depreciation availed of in the previous years by the assessees under the Bhavnagar War Profits Act. Paragraph 2 of the Removal of Difficulties Order of 1950 provided: "In making any assessment under the Indian Income-tax Act, 1922, all depreciation actually allowed under any laws or rules of a Part B State relating to income-tax and super-tax or any law relating to tax on profits of business shall be taken into account in computing the written down value under s. 10(5) (b) of the Act". The assessees contended that it was only when a difficulty was actually experienced in giving effect to the Act that the provision of the Order could come into operation in a particular case and as no such difficulty was actually experienced the said provision had no application, and that, in any case, as the Bhavnagar War Profits Act was not a law of the Part B State, para 2 of the Order was not applicable.

Held: (*i*) On the true construction of s. 13(5)(b) of the Saurashtra Income-tax Ordinance, the words "which would have been allowed to him" in that sub-section meant "which should have been allowed if proper claim had been made", and that in ascertaining the written down value the depreciation that would have been allowed if proper claim had been made if the Indian Income-tax Act, 1922, which was not in force in the State before, had been in force, should be deducted.

Commissioner of Income-tax v. *Kamala Mills Ltd.*, [1949] 17 I.T.R. 130 and *Rajaratna Naranbhai Mills Ltd.* v. *Commissioner of Income-tax* [1950] 18 I.T.R. 122, distinguished.

(*ii*) It was for the Central Government to determine if any difficulty had arisen in giving effect to the provisions of the Indian

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Income-tax Act, 1922, and then to make such order as appeared to it necessary to remove the difficulty, that once the order was made it operated under its own terms, and that in giving effect to the order it was not necessary for the Income-tax Officer to examine first in any particular case whether any difficulty had arisen. Accordingly, para 2 of that Taxation Laws (Part B States) (Removal of Difficulties Order, 1950, was applicable.

Commissioner of Income-tax v. *Dewan Bahadur Ram Gopal Mills Ltd.*, [1961] 2 S.C.R. 318, followed.

(*iii*) The Bhavnagar War Profits Act was a law within the words " any law relating to tax on profits of business" in para 2 of the Removal of Difficulties Order of 1950.

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 599-602 of 1962.

Appeals from the judgment and order dated April 7, 8, 1960 of the Bombay High Court in Income-Tax Reference Nos. 70 and 71 of 1956.

R. J. Kolah, Ravinder Narain, J. B. Dadachanji and *O. C. Mathur* for the appellants (In all the Appeals).

N. D. Karkhanis and *R. N. Sachthey*, for the respondent (In all the Appeals).

The Judgment of the Court was delivered by

Das Gupta J.

DAS GUPTA J.—The assessee is the appellant in each of these four appeals arising out of four references under s. 66(1) of the Indian Income-tax Act to the High Court of Bombay. In two of these appeals (C.A. Nos. 599 & 600 of 1962) the assessee who has filed the appeals is the Mahalaxmi Mills Ltd., in the other two (C.A. Nos. 601 and 602 of 1962) the Master Silk Mills Ltd., is the appellant-assessee. Appeals Nos. 599 and 601 are in respect of the assessment year 1949-50; the other two are in respect of assessment year 1951-52. The controversy in all these cases is as regards the computation of written down value in calculating depreciation allowance.

Both the assessees had from before 1949-50 been carrying on business in Bhavnagar which was formerly an Indian State. In 1948 Bhavnagar along with other Indian States of Kathiawar formed themselves into a union by the name of United States

of Kathiawar. Later the name Kathiawar was changed to Saurashtra. On March 16, 1949, the Raj Pramukh of this newly-formed State instituted the Saurashtra Income-tax Ordinance, 1949. This Ordinance was in force for one year only—the assessment year 1949-50. In assessing the profits of business by the two appellant-companies for the year 1949-50 the Income-tax Officer had therefore to proceed in accordance with the provisions of this Ordinance. For the purpose of calculating the depreciation allowance to which the assessee was entitled in computing the profits or gains of the business the written down value of the building, machinery and plants or furniture had first to be ascertained in accordance with s. 13(5) of the Ordinance which ran thus:—

> "Written down value" means:—
>
> (a) in the case of assets acquired in the previous year, the actual cost to the assessees;
>
> (b) in the case of assets acquired before the previous year the actual cost to the assessee less all depreciation actually allowed to him under this Ordinance or allowed under any Act repealed hereby or which would have been allowed to him if the Indian Income-tax Act, 1922, was in force in the past."

As the assets—of both the assessees— had been acquired before the previous year s. 13(5) (b) applied. Reading the words in the last part of s. 13(5) (b) as equivalent to "which would have been allowable to him if the Indian Income-tax Act, 1922, was in force" the Income-tax Officer, in ascertaining the written down value, deducted depreciation which would have been allowable under the Indian Income-tax Act, 1922, if it had been in force and a claim had been made supported by prescribed particulars. This amount in the case of the Mahalaxmi Mills Ltd., the appellant in C.A. No. 599/62, was computed as Rs. 17,21,041 and in the case of the Master Silk Mills Ltd., the appellant in C.A. No. 601/62, was calculated as Rs. 2,02,500. The obvious result of deducting

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this amount was that the written down value became considerably lower than what it would have been otherwise and so the depreciation allowance became less. The assessee's contention that no deduction should have been made on the strength of the words "which would have been allowed to him if the Indian Income-tax Act, 1922, was in fact in force in the past" as in fact no claim was made or could be made for such allowance, was rejected by the Income-tax Officer. The Appellate Assistant Commissioner as also the Income-tax Tribunal, however, took a different view and held that this expression "or which would have been allowed to him if the Indian Income-tax Act, 1922, was in force in the past" did not permit the Income-tax Officer to make any deduction under this head. The question of law which was referred to the High Court under s. 66(1) of the Indian Income-tax Act on the application of the Commissioner of Income-tax has therefore been framed thus:—

"Whether on the above facts and circumstances of the case and upon a proper construction of the expression "or which would have been allowed to him if the Indian Income-tax Act, 1922, was in force in the past" in Section 13(5)(b) of the Saurashtra Income-tax Ordinance, 1949 the written down value has to be computed by deduction from the actual cost of depreciation allowance which was allowable under the Indian Income-tax Act, 1922, even though not claimed?"

In each of the case, the High court answered the question in the affirmative, but gave a certificate that it was a fit case for appeal to the Supreme Court under s. 66(A) 2 of the Indian Income-tax Act. The present appeals have been filed on the basis of these certificates.

On behalf of the appellants Mr. Kolah has argued that the Ordinance has not used the words "would have been allowable to him" nor the words" would have been allowed to him if a claim supported by prescribed particulars had been made", and there is no justification for reading these words into the

Ordinance. He has stressed the fact that in many cases where the Indian Income-tax Act is in force the assessee might find it to his interest not to make a claim for the depreciation allowance and so no depreciation allowance would then be allowed to him. He concedes that it may be that the intention of the Raj Pramukh in using these words in the Ordinance was that the depreciation which could have been and would have been allowed if a proper claim had been made and substantiated, assuming the Indian Income-tax Act, 1922, was in force in the past, should be deducted in ascertaining the written down value. He contends however that the words actually used are not sufficient to express and give effect to this intention. According to him, it was necessary in order to give effect to such an intention that the words "if a claim had been made supported by proper particulars" or at least the words "if a claim had been made" had been used in this clause. In our opinion, the words which according to Mr. Kolah were necessary to give effect to the above intention are implicit in the very language that has been used though they have not been expressly used. The authority which made the Ordinance should be credited with having appreciated the position that no depreciation would have been allowed even if the Indian Income-tax Act, 1922, had been in force, if no claim supported by proper particulars had been made. When therefore the words "which would have been allowed to him" were used they were used to mean "which should have been allowed if proper claim had been made." For, it would be meaningless to speak of a depreciation allowance being allowed without a claim. The words used, in our opinion, are apt and sufficient to express the intention that if the Income-tax Act, 1922, which was not in force in the State before, had been in force, the depreciation that would have been allowed if proper claim had been made should be deducted in ascertaining the written down value.

Mr. Kolah complains that on this construction the position of the assessee becomes worse than

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if the Indian Income-tax Act, 1922, had actually been in force in Saurashtra. If that had been the case only the depreciation actually allowed in the earlier years would have been deductible and so, if no claim had been made and therefore no depreciation had been actually allowed, nothing would be deductible under this head. It does not stand to reason, argues Mr. Kolah, that the position of the assessee should be made worse by this fiction in s. 13(5) (b) of the Ordinance than it would have been if the Act had in fact been in force. It is not unreasonable to think however that when making this Ordinance the Raj Pramukh thought that if the Indian Income-tax Act, 1922, had been in force a proper claim would ordinarily have been made and whatever was allowable under that law would have been allowed as depreciation. The words used not only leave no doubt as regards the intention of the authority, but as we have already stated, are apt and sufficient to give effect to that intention.

Mr. Kolah urged that it would cause undue hardship to the assessee, that without having actually availed of any depreciation he would be treated as if he had done so. The words used do not however leave any doubt about the meaning and whether or not any hardship has been caused is beside the point.

Neither of the two cases cited by Mr. Kolah in support of his argument is of any assistance. In *Commissioner of Income-tax* v. *Kamala Mills Ltd.*[1] the Calcutta High Court decided that the words "actually allowed" in s. 10(5) (b) of the Indian Income-tax Act as amended by the Income-tax (Amendment) Act (XXIII of 1941) are unambiguous and connote the idea that the allowance was in fact given effect to. The Court rejected a contention of the Income-tax authorities that the expression "actually allowed" means "allowable" under the law in force. In that case the Court had not to deal with any expression similar to "depreciation which would have been allowed if the Indian Income-tax Act, 1922, was in

(1) [1949] 17 I.T.R. 130.

force". In *Rajaratna Naranbhai Mills Ltd.*, v. *Commissioner of Income-tax*[1] the Bombay High Court had to construe the words "the amount of depreciation applicable" and held that as the words were not "depreciation allowed" but "depreciation applicable" it was immaterial whether the assessee got any benefit of depreciation in any previous year. Here also, the Court was not called upon to consider the effect of the words under our present consideration, *viz.*, the depreciation which would have been allowed if the Indian Income-tax Act, 1922 had been in force. Thus, neither of these decisions has any application to the present appeals.

For the reasons we have already given, we are of opinion that the High Court was right in answering the question referred in these cases out of which Civil Appeals Nos. 599 and 601 have arisen, in the affirmative.

For the assessment years 1951-52 the controversy arises in a different way. In 1950, Saurashtra became a Part B State of the Union of India; by s. 3 of the Indian Finance Act, 1950, the Indian Income-tax Act was extended to it. In 1951-52 therefore the Indian Income-tax Act, 1922, was in force in Saurashtra in which Bhavnagar was included. So, in calculating the written down value of assets acquired before the previous year the Income-tax Officer had to apply the provisions of s. 10(5) (b) of the Indian Income-tax Act, 1922, which runs thus:—

> "In the case of assets acquired before the previous year the actual cost to the assessee less all depreciation actually allowed to him under this Act, or any Act repealed thereby, or under executive orders issued when the Indian Income-tax Act, 1886 (II of 1886) was in force."

What the Income-tax Officer did was to deduct not only the depreciation allowed in the assessment year 1950-51 under the Indian Income-tax Act but also the depreciation allowed in the assessment year

(1) [1950] 18 I.T.R. 122.

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1949-50 under the Saurashtra Income-tax Ordinance and the depreciation availed of in the previous years by the assessee under the Bhavnagar War Profits Act. There is or can be no dispute that the depreciation allowed in the assessment year 1950-51 was rightly deducted. There might have been a dispute about the depreciation allowed in 1949-50 under the Saurashtra Income-tax Ordinance, but, as before the High Court the assessee conceded that this amount was also rightly deducted, and no controversy on this was raised either before the High Court or before us. The only dispute that remains is whether the depreciation availed of under the Bhavnagar War Profits. Act—Rs. 5,93,285 in C.A. No. 600/62 by the Mahalaxmi Mills Ltd., and Rs. 1,26,707 in C.A. No. 602/62 by the Master Silk Mills Ltd.—was deductible in law. The Appellate Assistant Commissioner agreed with the Income-tax Officer that this was allowable. The Appellate Tribunal, however, took a different view, but on the prayer of the Commissioner of Income-tax referred the following two questions to the High Court under s. 66(1) of the Indian Income-tax Act:—

> "1. Whether on the above facts and circumstances of the case and on a correct interpretation of the relevant provisions of s. 10(5) (b) read with the Taxation Laws (Part B States) (Removal of Difficulties) Order, 1950, paragraph 2 and the Notification No. 19 (S.R.O.477) dated 9th March 1953 under Section 60A the written down value is to be computed after deducting depreciation allowance which could have been claimed under the Indian Income-tax Act, 1922?
>
> 2. Whether the Notification No. 19 (S.R.O. 477) dated 9th March 1953 is *ultra vires* of the powers of the Central Government?"

The High Court has answered the second question in the affirmative and the correctness of that is no longer in dispute before us.

As regards the first question it appears to us that the matter in controversy between the parties which was actually considered by the High Court is not clearly brought out by the question as framed. Both parties agree that the real question on which the High Court's view was sought and which has been actually cansidered by the High Court may be expressed thus:—

> "Whether on the above facts and circumstances of the case and on a correct interpretation of the relevant provisions of Section 10 (5) (b) of the Indian Income-tax Act, 1922 read with the Taxation Laws (Part B States) (Removal of Difficulties) Order, 1950, paragraph 2 and the Notification No. 19 (S.R.O. 477) dated the 9th March 1953 under section 60A the depreciation availed of by the assessees under the Bhavnagar War Profits Act was a deductible amount in computing the written down value of the assets."

It will be noticed that the validity of the Notification referred to in the question was the subject-matter of the second question and the correctness of the High Court's answer that it was invalid, was not questioned before us. What really remained to be considered by the High Court was the effect of paragraph 2 of the Taxation Laws (Part B States) (Removal of Difficulties) Order, 1950—to which we shall later refer as the "Removal of Difficulties Order". The High Court held that the provisions of this paragraph applied to these two cases of assessment for 1951-52 and under them the depreciation already availed of by the assessees under the Bhavnagar War Profits Act had to be deducted in computing the written down value. The correctness of this decision is challenged before us in C.A. Nos. 600 and 602 of 1962.

The Removal of Difficulties Order was made by the Central Government on December 2, 1950, in exercise of the powers conferred by s. 12 of the Finance Act, 1950, and Section 5 of the Opium and

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and Revenue Laws (Extension of Application) Act, 1950. We are concerned in the present case only with s. 12 of the Finance Act, 1950. That section runs thus:—

> "If any difficulty arises in giving effect to the provisions of any of the Acts, rules or orders extended by section 3 or section 11 to any State or merged territory, the Central Government may, by order, make such provision or give such direction as appears to it to be necessary for removing the difficulty."

Section 3 of the Act had the effect of extending the Indian Income-tax Act, 1922, to Part B States in the Union of India. It was not disputed that it was within the competence of the Central Government to make the Removal of Difficulties Order, 1950, if any difficulty arose in giving effect to the Indian Income-tax Act in an area to which it so became extended. In making the order the Central Government has expressly said: "That certain difficulties had arisen in giving effect to the provisions of the Indian Income-tax Act, 1922... .....in Part B States" and so, the order was made. In *Commissioner of Income-tax Hyderabad v. Dewan Bahadur Ram Gopal Mills Ltd.*, [1] this Court held that it was for the Central Government to determine if any difficulty of the nature indicated in s. 12 had arisen and then to make such order or give such direction as appeared to it to be necessary to remove the difficutly. It was in view of this decision that Mr. Kolah conceded that the order was validly made. He contends however that it is only when a difficulty is actually experienced in giving effect to the Indian Income-tax Act that the provision of the Order can come into operation in a particular case. In the cases now under consideration, he argues, no such difficulty was actually experienced and so, paragraph 2 would have no application.

In our opinion, the High Court rightly rejected this contention. The consequence of the Removal of Difficulties Order being validly made under s. 12

(1) [1961] 2 S. C. R. 318.

of the Finance Act, 1950, is that paragraph 2 of the Order (as also the other paragraphs) have to be applied and no exception can be made. Paragraph 2 runs thus:—

> "In making any assessment under the Indian Income-tax Act, 1922, all depreciation actually allowed under any laws or rules of a Part B State relating to income-tax and super-tax or any law relating to tax on profits of business shall be taken into account in computing the aggregate depreciation allowance referred to in sub-clause (c) of the proviso to clause (iv) of sub-section 2, and the written down value under clause (b) of sub-section 5, of section 10, of the said Act."

These words require "all depreciation actually allowed under any laws or rules of a Part B State relating to income-tax and super-tax or any law relating to tax on profits of business" to be taken into account in computing the written down value under s. 10 (5) (b) of the Indian Income-tax Act,—irrespective of whether any difficulty has or has not arisen in a particular case in giving effect to the provisions of the Indian Income-tax Act. What is necessary in law is that before an order can be made by the Central Government under s. 12, the Central Government must be satisfied that in certain cases difficulties have actually arisen in giving effect to the provisions of the Indian Income-tax Act. Once on such satisfaction an order is made it is not again necessary for the application of the order in a particular case that difficulty must be found to have arisen. A separate Order under s. 12 has not got to be made each for particular case. The order once made on the satisfaction of the Central Government that in some cases difficulties have arisen in giving effect to the provisions of the Indian Income-tax Act the order operates under its own terms and so in giving effect to the order it is not necessary for the Income-tax Officer to see first whether any difficulty has arisen.

We are of opinion that whether any difficulty did actually arise in the cases now under considera-

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tion in applying the Indian Income-tax Act, 1922, in this Part B State or not, paragraph 2 of the Removal of Difficulties Order must be applied according to its terms. It is therefore not necessary to examine whether any such difficulty did arise in these cases.

This brings us to Mr. Kolah's main contention that the Bhavnagar War Profits Act is not one of the laws depreciation allowed under which has to be deducted under paragraph 2 of this Order. He points out that the Bhavnagar War Profits Act had ceased to be in force long before the Part B State—the United States of Saurashtra—came into existence. It was therefore never a law of a Part B State and so depreciation which the assessee availed of under it will not come within the words "all depreciation actually allowed under any laws or rules of a Part B State relating to income-tax and super-tax." This appears to be correct; but the question still remains whether the Bhavnagar War Profits Act is covered by the words "any law relating to tax on profits of business" in the paragraph. If it does, the depreciation which the assessee availed of under the Act has to be deducted in computing the written down value. Analysing the clause: "all depreciation actually allowed under any laws or rules of a Part B State relating to Income-tax and super-tax" or any law relating to tax on profits on business," we notice that the words "of a Part B State" were used to qualify the phrase "any laws or rules" in the first portion of the clause. Similar words were not used to qualify the words "any law" in the second part. According to Mr. Kolah these words "of a Part B State" were intended to be read also after the words "any law" in the latter portion and were omitted by way of ellipsis so that the sentence might not appear cumbersome. Ellipsis is a well-known figure of speech by which words needed to complete the construction or sense are omitted to produce better rhythm or balance in the structure of the sentence.

After careful consideration we have however come to the conclusion that the omission of the words

"of a Part B State" in this paragraph is not by way of ellipsis but a deliberate omission with the intention of including laws which could not be stated to be laws of a Part B State but had been laws in the same area at a time before they formed part of a Part B State. If the omission had been by way of ellipsis, as argued by Mr. Kolah, it would be reasonable to think that the words "any law relating to tax" would also have been omitted and this part of the paragraph would have read as "all depreciation actually allowed under any laws or rules of a Part B State relating to Income-tax and super-tax or tax on profits of business." It also appears to us that if the intention had not been to include the depreciation allowed under a law which had been law in a component part of the Part B State before it became included in the Part B State, it was unnecessary to add the words "or any law relating to tax on profits of business." For, "a law relating to tax on profits of business" is also a law relating to Income-tax and, so, depreciation actually allowed under a law relating to tax on profits of business which was law of a Part B State would come within the first portion of the clause. It is worth noticing in this connection that in 1949 when by an Ordinance certain taxation laws were extended to Merged States the Central Government made under s. 8 of that Ordinance 'The Taxation Laws (Merged States) (Removal of Difficulties) Order, 1949". Paragraph 2 of that Order merely said "all depreciation actually allowed under any laws or rules of a merged State relating to Income-tax and super-tax shall be taken into account." Nothing was said in that Order as regards "any law relating to tax on profits of business." The Removal of Difficulties Order add the words "any law relating to tax on profits of business". This appears to have been done with the deliberate intention of including depreciation allowed under such laws, even though they were not laws "of a Part B State" but of a component State.

We have come to the conclusion that the Bhavnagar War Profits Act is within the words "any law

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relating to tax on profits of business" in paragraph 2 of the Removal of Difficulties Order. We hold that the High Court has rightly decided that the depreciation availed of by the assessee under the Bhavnagar War Profits Act was a deductible amount in computing the written down value of the assets.

All the appeals are therefore dismissed with costs. There will be one set of hearing fee in all the appeals.

Appeal dismissed.

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October 24

STATE OF MAHARASHTRA

v.

MISHRI LAL TARACHAND LODHA AND OTHERS

(P. B. GAJENDRAGADKAR, K. SUBBA RAO, K. N. WANCHOO, J.C. SHAH AND RAGHUBAR DAYAL JJ.)

Bombay Court Fees Act, 1959 (36 *of* 1959), *Art.* 1, *Sch.* 1—"*Value of the subject-matter in dispute in appeal—Construction of —Award of interest* pendente lite *not specifically challenged—Court fees, if payable.*

The plaintiff-respondent No. 1 instituted a suit for recovery of the amount lent to the defendant with interest upto the date of the suit. His claim was decreed in a sum of Rs. 13,033-6-6 with future interest from the date of suit till realisation at 4% per annum on a sum of Rs. 10,120. Against this decree the defendant appealed to the High Court and valued the appeal at Rs. 13,033-6-6 and paid the requisite court fee on that amount. All his grounds of appeal related to the merits of the plaintiff's claims and did not deal with the correctness of the trial court awarding future *pendente lite* interest on the rate at which it was to be calculated. The Taxing Officer directed the defendant to pay the deficit court fee of Rs. 70 on the memorandum of appeal as he was of the opinion that the appeal was against the whole decree and that the amount of value of the subject-matter in dispute for purpose of court fee was Rs. 14,036.80nP. as the amount of interest from the date of the suit till the date of the decree on Rs. 10,120 came to Rs. 1,033.40nP.