

IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION

PRESENT:

Mr. Justice Hasan Foez Siddique, Chief Justice

Mr. Justice M. Enayetur Rahim

Mr. Justice Md. Ashfaqu Islam

Mr. Justice Jahangir Hossain

CIVIL PETITION FOR LEAVE TO APPEAL NOS. 1808-1810 OF 2023

(Arising out of Income Tax Reference Application No. 108-110 of 2015)

Dr. Muhammad Yunus :Petitioner
(in all the cases)

-Versus-

The Commissioner of Taxes, Taxes :Respondent
Zone-06, Dhaka (in all the cases)

For the Petitioner : Mr. Sarder Jinnat Ali, Advocate with
(in all the cases) Mr. Md. Delowar Hossain, Advocate
instructed by Mr. Md. Taufique
Hossain, Advocate-On-Record.

For the Respondent : Mr. A.M. Amin Uddin, AG with Mr.
(in all the cases) Sk. Md. Morshed, Adl. AG and Mrs.
Farjana Rahman Shampa, AAG
instructed by Mr. Haridas Paul,
Advocate-on-record.

Date of Hearing and : **The 23rd July, 2023**
Judgment

JUDGMENT

Md. Ashfaqu Islam ,J: All these Civil Petitions for Leave to Appeal are directed against the Judgment and order dated 31.05.2023 passed by the High Court Division in Income Tax Reference Application Nos. 108-110 of 2015 disposing of the same and since there involved similar question of fact and laws those have been heard together and disposed of by this single judgment.

Facts for disposal of all the civil petitions in short, are that the petitioner Dr. Muhammad Yunus, a Noble Laureate herein as applicant (hereinafter referred to as assessee) filed the aforesaid reference applications under section 12 of the দানকর আইন, ১৯৯০ (hereinafter referred to as Gift Tax Act, 1990) read with section 160 of the Income Tax Ordinance, 1984 raising the following question of law:

Whether in the facts and circumstances of the case, the Taxes Appellate Tribunal was justified in denying exemption on the gift made by the Applicant to Professor Muhammad Yunus Trust to the tune of Tk. 7,50,00,000/- and imposing tax on the ground of not falling within exemption described in Section 4(1) of the Gift Tax Act, 1990?

Whether in the facts and circumstances of the case the Taxes Appellate Tribunal was justified in denying exemption on the gift made by the Applicant to Yunus Family Trust to the amount of Tk. 15,00,000/- and imposing tax on the ground of not falling within the exemption described in Section 4(1) of the Gift Tax Act, 1990?

Whether in the facts and circumstances of the case, the Taxes Appellate Tribunal was justified in denying exemptions on the gifts made by the assessee without

considering the scope and meaning of exemption provided under Section 4(1) (cha) and (ja) of the Gift Tax Act, 1990?

The case of the petitioner, as averred in the said application is as follows:

Extra Assistant Commissioner of Taxes (having been included in the meaning of 'Deputy Commissioner of Taxes' by section 2(23) of the Income-tax Ordinance, 1984 and hereinafter referred to as 'the DCT') of Circle-127, Taxes Zone-6, Dhaka upon examination found that the assessee on several occasions made various amount of gifts to 03 (three) Trusts, which are subject to the gift tax having been imposed under the Gift Tax Act, 1990. Accordingly, the DCT issued notices under section 7(2) of the Gift Tax Act, 1990 asking the assessee to submit his returns in accordance with the provision of section 7 of the Act, 1990; in reply, the assessee submitted his returns on 05.12.2013 in accordance with the provision of section 7(1) of the Act, 1990 for the assessment years, 2011-2012, 2012-2013 and 2013-2014, respectively, claiming exemption under section 4 (chha) and (ja) of the said Act. The DCT concerned upon examination of the record and relevant

provisions of law rejected the contention of assessee and thereby made 3(three) separate assessments on 26.01.2014 for the assessment years, 2011-2012, 2012-2013 and 2013-2014, respectively, computing total taxable gift amount for year 2011-2012 the assessment at Tk.61,57,69,000/- for and demanding applicable gift tax of Tk. 12,28,74,800/-; for the assessment year 2012-13 total taxable gift amount was computed at Tk.8,15,00,000/-, demanding applicable gift tax of Tk.1,60,21,000/- and for the assessment year 2013-14, the taxable gift amount was computed at Tk.7,65,00,000/-, demanding applicable gift tax of Tk. 1,50,21,000/-.

Against the aforesaid orders of assessment, assessee preferred 3(three) separate appeals before the Appellate Joint Commissioner of Taxes, Dhaka (hereinafter referred to as the 'AJCT') being Aikor Appeal Patra Nos. 130, 131 and 132/Tax Circle-127/2013- 2014; the AJCT after hearing the assessee's representative and on examination of the record, affirmed the assessment orders of DCT and thereby rejected the claim of exemption by his order dated 30.04.2014.

Being aggrieved by the order of AJCT, assessee took 3(three)separate second appeals before the Taxes Appellate Tribunal, Division Bench-1, Dhaka being Income-tax Appeal

No.60 of 2014- 2015 (assessment year 2011-2012), Income-tax Appeal No.61 of 2014-2015 (assessment year 2012-13) and Income-tax Appeal No. 62 of 2014-2015 (assessment year 2013-14). The Tribunal, after hearing the representatives of both the parties by its consolidated order dated 20.11.2014, rejected the contention of assessee-appellant regarding the claim of exemption and thereby affirmed the orders of AJCT.

Being aggrieved by and dissatisfied with the consolidated order of Tribunal dated 20.11.2014, the assessee filed reference applications before the High Court Division formulating aforementioned questions of law.

Upon hearing the applications of the petitioner, the High Court Division disposed of the same by a single judgment and order dated 31.05.2023 finding the questions of law formulated to the application of the petitioner in affirmative, thereby finding the answers against the petitioner and in favour of the respondent, Commissioner. The High Court Division also directed the Registrar of the Supreme Court of Bangladesh to take steps in view of the provisions of Section 161(2) of the Income Tax Ordinance, 1984.

Being aggrieved by and dissatisfied with the judgment and order dated 31.05.2023 passed by the High Court Division the petitioner filed the instant civil petitions before this Division.

Mr. Sarder Jinnat Ali, the learned Advocate appearing for the petitioner in all the cases mainly submits that the gifts in question squarely falls within exemption of section 4(1) the Gift Tax Act, 1990 for the reason that the gifts have been made in the contemplation of death and the beneficiaries of gifts are family members of the donor-assessee. In support of the submission he referred to a judgment of this Division passed in the case of Nazma Begum -Vs- Bangladesh and others, reported in 7 BLC-655 and thereby prayed for answering the questions of law in negative and in favour of assessee-applicant.

In elaborating his submissions the learned Advocate for the petitioner submits that the petitioner submitted income tax return. As stated in the assessment order dated 26.1.2014, upon perusal of the income tax return submitted by the petitioner, the DCT found that the petitioner has gifted away some money which he asserted to be taxable under Gift Tax Act, 1990. Consequently, the DCT sent notice

under Section 7 of the Act, 1990 for filing return under Act, 1990. In reply to the said notice, the petitioner, on 05.12.2013 submitted return under the Act, 1990 and submitted that such gift is exempt from tax under Section 4(1) of the Gift Tax Act. On 20.01.2014, a hearing was conducted wherein the representative of the petitioner submitted that such gift is exempt from tax under Section 4(1) (Chha) and 4(1) (ja) of the Gift Tax Act, 1990. However, the DCT rejected such submission and by an assessment order dated 26.1.2014 has purportedly determined the tax on gift made to Professor Muhammad Yunus Trust and Yunus Family Trust to the tune of Tk. 7,50,00,000 and Tk. 15,00,000 respectively under section 10 of the Gift Tax Act, 1990 and further assessed the gift tax payable by the petitioner at Tk. 1,50,21,000 only.

On the other hand, the learned Attorney General made his submission contending that section 4(1) of the Gift Tax Act, 1990 provides that-

“নিম্নবর্ণিত ক্ষেত্রসমূহে কোন ব্যক্তির কৃত দানের উপর এই আইনের অধীন কোন দানকর আরোপযোগ্য হইবে না,
যথা:

(ক)

(খ)

.....

(ছ) দান যদি মৃত্যু চিন্তায় করা হয়;

(জ) দান যদি পুত্র, কন্যা, পিতা, মাতা, স্বামী, স্ত্রী, আপন ভাই অথবা আপন বোনকে করা হয়।”

Since the assessee-applicant does not come within the purview of the above quoted provisions of law, as such, he is not entitled to get the benefit of exemption under the Act, 1990.

Next he submits that assessee-applicant has gifted the amount in question to different trusts and asking to grant exemption within the scope of section 4(1) (ja) of the Gift Tax Act, 1990. To qualify for getting exemption, he continues, the assessee was to make his gift to the specified persons of clause 'Chha' and 'ja' of section 4(1) of the said Act, but in the instant case, in fact, assessee gifted the money to 03(three) different trusts which are not the specified as per section 4(1) (Chha) and (ja) of the Act, 1990.

He further submits that the assessee hopelessly failed to make out a case of exemption as per section 4(1)(Cha) and (Ja) of the Act, 1990; thus, he is not entitled to get the benefit of the provision of section 4(1)(chha) and (Ja) of the Act. He lastly submits that the gift was made in favour of 03 (three) different trusts and the purposes and objects of the trusts are to maintain the assessee, his wife, his children and to meet their personal expenses,

their travel and other expenditure; thus, the gifts for the aforementioned purposes cannot be treated as gift made in death bed or gift on being agonized by the thought of death; rather it can be treated as a device to avoid the statutory tax and in view of above he prayed for answering the questions of law in affirmative and against the assessee-applicant.

We have heard the learned Advocate for the petitioner and the learned Attorney General for the respondent, perused the reference applications, alongwith the annexures and also have gone through the cited judgments and relevant provisions of law.

On appreciation of the argument of the parties the core question that has to be addressed in all these Civil petitions is that whether the petitioner assessee is entitled to get the benefit of exemption of tax under section 4(1)(chha) and (Ja) of the Gift Tax Act, 1990 read with section 3 of the Trust Act, 1882.

Admittedly, the petitioner has constituted trusts being Professor Muhammad Yunus Trust and Yunus Family Trust for the purpose mainly of maintenance of himself and his family members as well as to do some philanthropic and charitable

activities on a limited scale. In the said Trust Deeds for the above named trusts, the petitioner also indicated the use of the trust properties in case of his death. The petitioner, since creation of the trusts, has made various amount of gifts to these trusts.

Accordingly, gift tax was imposed upon assessment under the Gift Tax Act, 1990 but the petitioner as expressed above tried to impress upon us that his case was covered under Section 4(1)(chha) and (Ja) of the Gift Tax Act, 1990 and has been exempt from tax in that the trustees of the trust were not the recipients of the gifts absolutely rather holder of the gifts on trust for the beneficiaries, who were within the exceptional category of recipients for whom the exemption as provided in Section 4(1)(chha) of the Act, 1990 applies even within the meaning of section 3 of the Trust Act, 1882.

To unfold the core issue as we have pointed out in the instant case we have to analyse the relevant laws and their implications, interpretation, applicability and appreciation as it has been dealt with by the lower assessment tires of the tax authority and lastly by the High Court Division in reference.

The definition of gift under section 2(1) of Gift Tax Act, 1990 states:

“(চ) “দান” বলিতে এক ব্যক্তি কর্তৃক অন্য কোন ব্যক্তিকে স্বেচ্ছায় অর্থ বা অর্থমূল্যের প্রতিলাভ ছাড়া কোন স্থাবর বা অস্থাবর সম্পত্তি হস্তান্তর বুঝাইবে;”

Then Section 4(1) (cha) and (Ja) stipulates:

“নিম্নবর্ণিত ক্ষেত্রসমূহে কোন ব্যক্তির কৃত দানের উপর এই আইনের অধীন কোন দানকর আরোপযোগ্য হইবে না, যথা:

(ক)

(খ)

.....

(ছ) দান যদি মৃত্যু চিন্তায় করা হয়;

(জ) দান যদি পুত্র, কন্যা, পিতা, মাতা, স্বামী, স্ত্রী, আপন ভাই অথবা আপন বোনকে করা হয়।”

Section 4(3) states:

“(৩) সরকার, সরকারী গেজেটে প্রজ্ঞাপন দ্বারা, যে কোন শ্রেণীর দান অথবা যে কোন শ্রেণীর ব্যক্তিকে এই আইনের অধীন প্রদেয় কর হইতে অব্যাহতি দিতে পারিবে :

তবে শর্ত থাকে যে, এই উপ-ধারার অধীন প্রজ্ঞাপিত অব্যাহতি উক্ত প্রজ্ঞাপনে উল্লিখিত শর্ত সাপেক্ষে করা যাইবে।”

Next comes the definition of gift as it could be found in Transfer of Property Act, 1882. Section 122 of the said act defines gift as under:

“122. “Gift” is the transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called

the donor, to another, called the donee, and accepted by or on behalf of the donee."

The Trust Act, 1882 in chapter I defines trust with its other features as envisages in the section 3 of the said Act. It states:

3. A "trust" is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner: the person who reposes or declares the confidence is called the "author of the trust": the person who accepts the confidence is called the "trustee": the person for whose benefit the confidence is accepted is called the "beneficiary": the subject-matter of the trust is called "trust-property" or "trust-money": the "beneficial interest" or "interest" of the beneficiary is his right against the trustee as owner of the trust-property; and the instrument, if any, by which the trust is declared is called the "instrument of trust":

a breach of any duty imposed on a trustee, as such, by any law for the time being in force, is called a "breach of trust":

Section 2(23) of the income Tax Ordinance, 1984 is pertinent here since the Advocate for the petitioner assessee has raised a question that the initial assessment passed by the DCT, admittedly in charge, is not in keeping or so to say is not valid under law is a wrong submission since Section 2(23) clearly empowers persons who can make assessment and the assessment of the instant case is absolutely in accordance with the said law. Law enjoins:

"(23) "Deputy Commissioner of Taxes" means a person appointed to be a Deputy Commissioner of Taxes under section 3, 30[and includes a person appointed to be a Transfer Pricing Officer,] an Assistant Commissioner of Taxes, an Extra Assistant Commissioner of Taxes and a Tax Recovery Officer;"

The provisions of Trust Act clearly indicate the periphery and scope of a trust. In no way obligations to be observed under the trust law in particular its purpose can

be found under Section 3 and 4 of the Gift Tax Act, 1990 and under the Transfer of Property Act, 1882.

The petitioner submitted income tax return whereupon the DCT found that he has gifted away some money which is assumed to be taxable under gift tax Act, 1990, Consequently, the DCT sent notice under section 7 of the Act for filing return under the said act.

In his reply he has submitted that such gift is exempt from taxation under section 4 of the said act. He sought exemption under Section 4(1) (chha) and (Ja) of the said act which was rejected by the DCT determining the tax on gift made to Professor Muhammad Yunus and Yunus family trust under section 10 of the Act, 1990. In the deed of trust dated 20.07.2009 it has been clearly stated:

"After the death of the said Professor Muhammad Yunus, the income of the trust property shall be spent for the maintenance of his wife Dr. Afrozi Yunus and his daughters Monica Yunus and Deena Afroz Yunus and on all such religious, social and customary needs of the family as aforesaid. The benefit of the Trust Property shall not accrue beyond the lifetime of the said beneficiaries as

such the beneficiaries shall not be entitled to alienate the benefit under this Trust beyond their lifetime."

From the deeds of trust, it is clearly evident that the trusts are established for the personal benefit of Professor Muhammad Yunus during his life and his wife and other family members and as such by no stretch of imagination it can be held that the gifts are made in the agony of the thought of death or in death bed within the meaning of Section 4(1)(chha) and (Ja) as the case may be of the Act, 1990.

And in the deed of trust of Yunus Centre, it is not found any such provision for which any gift to the said Trust can be regarded as gift on being agonized by the thought of death.

A combined reading and meticulous analysis of the Gift Tax Act, 1990, Transfer of Property Act, 1882, Income Tax Ordinance, 1984 and other laws clearly suggest the ineligibility of the petitioner to avail exemption of tax within the meaning of section 4(1)(Chha) and (Ja) of the Gift Tax Act, 1990 in particular.

Relevantly we can also quote section 12 of the Act,
1990:

“১২। (১) কোন ব্যক্তি এই আইনের অধীন উপ-কর কমিশনার বা কর আদায় কর্মকর্তার কোন আদেশ দ্বারা সংস্কৃত হইলে তিনি উক্ত আদেশ যদি আয়কর অধ্যাদেশের অধীন আয়কর সম্পর্কিত কোন আদেশ হইত তাহা হইলে উক্ত আদেশের বিরুদ্ধে উক্ত অধ্যাদেশের অধীন যে কর্তৃপক্ষের নিকট আপীল করিতে পারিতেন তাঁহার নিকট আপীল করিতে পারিবেন এবং উক্ত আপীল কর্তৃপক্ষের রায় দ্বারা সংস্কৃত কোন পক্ষ উক্ত আপীল কর্তৃপক্ষের বিরুদ্ধে আয়কর অধ্যাদেশের অধীন আয়কর সংক্রান্ত বিষয়ে যে সকল কর্তৃপক্ষের নিকট আপীল, রিভিশন বা রেফারেন্স করা যায় সেই সকল কর্তৃপক্ষের নিকট ক্ষেত্রমত আপীল, রিভিশন বা রেফারেন্স করিতে পারিবেন।

(২) এই ধারার অধীন আপীল, রিভিশন বা রেফারেন্সের ক্ষেত্রে আয়কর অধ্যাদেশের অধীন আপীল, রিভিশন বা রেফারেন্সের পদ্ধতি অনুসরণ করিতে হইবে।”

The assessment originating from the lowest level which reached in its finality upto the High Court Division in reference application under section 160/166 of the Income Tax Ordinance, 1984 has highlighted all these salient aspects as we have discussed above in detail.

Mr. Jinnat Ali, the learned Advocate for the petitioner contended that assessment of DCT was not legal as he was holding current charge while doing so. This Argument is fallacious one in that it is opposed to section 2(23) of the Income Tax Ordinance, 1984. The provision clearly states who can make an assessment in terms of the said law.

And it has already been discussed. There is no ambiguity on that score.

Before our deliberations on the total gamut of this case we want to note some pertinent extracts of the High Court Division's Judgment together with the decisions cited by the said Division.

The following observations of the High Court Division are very much relevant and legally correct:

"In sub-section(2) of section provides that apart from the exemption of sub-section (1), no gift tax under this Act is leviable on any gift made in any fiscal year by any person up to Tk.20,000/-: meaning thereby, any gift made above Tk.20,000/- is subject to the gift tax under the Gift Tax Act, 1990.

Section 20(ka) of the Gift Tax Act, 1990 excluded the application of the Gift Tax Act providing that no provision of the Act shall be applicable in case of any gift made by any statutory organization established by or under any law of Parliament and section 20(kha) provides that the provision of this Act shall also not be applicable

to any gift made by any institution or fund, which itself is exempted under paragraph 1 and 2 of Part-A of the Sixth Schedule of the Income-tax Ordinance, 1984.

In view of the facts as reveals from the reference applications and the documents on record, it appears that the provisions of exclusion as provided under section 20 is not applicable to the assessee-applicant; because, assessee is neither a statutory organization nor he is an exempted organization or fund within the meaning of paragraph 1 and 2 of Part-A of the Sixth Schedule of the Income-tax Ordinance, 1984."

Fortifying the above observations the High Court Division also cited the following decisions:

In *Stahl vs. the Educational Association of the Methodist Church* (54 Kan, 542. 38 Pac. 796):

"All property receives protection from the state. Every man is secured in the enjoyments of his own, no matter to what use he devotes it. This security and protection carry with them the corresponding obligation to support. It is an obligation which rests equally upon all. It may require military service in time of war, or

civil service in time of peace. It always requires pecuniary support. This is taxation. The obligation to pay taxes is co-extensive with the protection received. An exemption from taxation is a release from this obligation. It is the receiving of protection without contributing to the support of the authority which protects. It is an exception to a rule, and is justified and upheld upon the theory of peculiar benefits, received by the state from the property exempted. Nevertheless, it is an exception; and they who claim under an exception must show themselves within its terms".

In the jurisprudence of the Supreme of the State of Tennessee in *Bank of Commerce-Vs- Tennessee* (161 U.S. 134; 145, 16 S.Ct. 456, 40 L. Ed. 645) the doctrine of strict construction of taxation statutes has further got bolstered. It was held:

"Taxes being the sole means by which sovereignties can maintain their existence, any claim on the part of anyone to be exempt from the full payment of his share of taxes on any portion of his property must on that account be clearly defined and founded upon plain language. There must be no doubt or ambiguity in the language used upon which the claim to the exemption is founded. It has been said that a well founded doubt is fatal to the claim; no implication will be indulged in for the purpose of construing the language used as giving the claim for exemption where such claim is not founded

upon the plain and clearly expressed intention of the taxing power."

The judicial opinion of the Supreme Court of India on the issue of exemption from taxation and construction of taxation laws where ambiguity arises was reflected in the case of *Novopan India Limited -Vs- Collector of Central Excise and Customs*, Reported in 1994 (Supp) (3) SCC-606 Supreme Court of India, held as under:

"Shri Narasimhamurty again relied on certain observation in CCE -VS- Parle Exports (P) Limited, in support of strict construction of a provision concerning exemption. There is support of Judicial opinion to the view that exemptions from taxation have a tendency to increase burden on the other un-exempted class of tax payers and should be construed against the subject in case of ambiguity. It is an equally well known principle that a person who claims an exemption has to establish his case."

Indeed, in the said case of *Parle Exports (P) Limited* relied upon by *Shri Narasimhamurty*, it was also observed:

"While interpreting an exemption clause, liberal interpretation should be imparted to the language thereof, provided no violence is done to the language employed. It must, however, borne in mind that absurd results of construction should be avoided."

Following the judgment of Novopan India Limited the Supreme Court of India further endorsed its earlier view in the case of Liberty Oil Mills (P) Limited -Vs- Collector of Central Excise, reported in (1995) 1 SCC 451:

"In the case of an ambiguity or doubt regarding an exemption provision in a fiscal statute, the ambiguity or doubt will be resolved in favour of Revenue and not in favour of the assessee."

Let us now digress to our interpretation.

The language employed in fiscal law has to be strictly construed and be given its plain and natural meaning and in such Statute one has to look merely as what is said therein and there is no room for any intendment. Nothing is to be read in and nothing is to be implied. One can look fairly at the language used. CIT vs. Zeenat Textile Mills Ltd. 6 BTD 85 (AD).

While interpreting section 45A of the Income Tax Ordinance 1922 to be unambiguous, CJ Hamoodur Rahman (as he then was), in Md. Ismail vs. State 21 DLR (SC) 161, expressed in the following words:

"The purpose of construction or interpretation of statutory provision is no doubt to ascertain the true intention of the

Legislature, yet that intention has, of necessity, to be gathered from the words used by the Legislature itself. If those words are so clear and unmistakable that they cannot be given any meaning other than that which they carry in their ordinary grammatical sense, then the Courts are not concerned with the consequences of the interpretation, however, drastic or inconvenient the result, for, the function of the Courts is interpretation, not legislation."

In the case of M/s. Gulistan Cinema Co. 28 DLR 16 (AD) it was held that rule of interpretation of the Constitution and the Statute is the same.

In this regard I want to cite the decision of Director of Taxation and Excise Govt. of E. Pak. (now Bangladesh) vs. Mehedi Ali Khan Ponni 32 DLR (AD) 138 wherein Chief Justice Kemal Uddin Hossain (as his Lordship then was) very succinctly made some observations which are relevant on the issue:

"Interpretation of Taxing Statute-Doctrine Of LAISSEZ FAIRE AND WELFARE ECONOMY in interpreting a taxing Statute a controversy often arises and learned authorities are cited in support of the proposition that a taxing Statute is to be construed strictly in favour of the subject. But this view though

not abandoned in case of unresolved ambiguity, does no longer get the one-sided support from the judicial authorities. The view of strict construction prevailed at a time when the doctrine of LAISSEZ FAIRE AND WELFARE ECONOMY was the ruling principle of a economy of a State, but almost all the leading States of the World have long abandoned the doctrine and adopted welfare doctrine of economy. Even a country like England where the doctrine of LAISSEZ FAIRE and WELFARE ECONOMY originated has abandoned it in favour of welfare economy. The newly emerging nations like ours have mostly adopted the welfare doctrine."

His Lordship then rightly observed:

"In a fiscal or taxing Statute one has to look merely at what is clearly said therein, for there is no room for any intendment nor for any equity or for any presumption. In case of unresolved ambiguity, it may be interpreted favourably to the citizen but nothing more. The attempt of the Court in case of ambiguity is to be guided by principle of justice and fairness and to try to arrive at a true meaning of the word."

On a plain reading of Section 4(1) (ja) of the Act, 1990 we have found that that if the gift is made to the son, daughter, father, mother, husband, wife, full brother

or full sister of the donor, then the said gift shall be exempt from the gift tax or be excluded from the ambit of gift tax chargeable under section 3 of the Gift Tax Act, 1990.

In the instant case the assessee-applicant made his gifts in several assessment years, in particular, in the assessment years, 2011-2012, 2012-13 and 2013-2014 to 03 (three) trusts established under 03(three) separate deeds of trust, which in no stretch of imagination can be regarded as the persons contemplated in clause (ja) of sub-section (1) of section (4) to qualify for the exemption from the gift tax available under the aforementioned provision.

In the discussions as made above and keeping the principle of laws and authorities regarding interpretation of the provisions of exemption from taxation in mind, it can safely be held when the intention of the Legislature on the statutory language manifestly suggests no ambiguity, it is not permissible to attribute different meaning to the language employed in the text of the legislation of the Gift Tax Act, 1990 for the purpose of enlarging the scope of said legislation.

In this regard, it would be profitable to quote again some words from the judgment of this Division in the case of Director of Taxation and Excise -Vs- Mehedi Ali Khan Panni, 32 DLR(AD) 138, which is as follows:

"A taxing statute is to be interpreted on the language used in the statute. No tax can be imposed on the citizen without the word in an Act of the legislature clearly showing the intention to lay a burden on him. When that intention is sufficiently shown, it is not open to speculate on what would be the fairest and most equitable mode of levying tax. In a fiscal or taxing statute one has to look merely at what is clearly said therein, for there is no room for any intendment nor for any equity or for any presumption."

Fortified with the decisions and the discussions as made above, we are of the view that the High Court Division rightly held that the assessing officer (Extra Assessment Commissioner of Taxes) and the appellate authorities below did not commit any illegality in imposing gift tax as contemplated under section 3 of the Gift Tax Act, 1990 and in rejecting the claim of exemption; because, in view of the provisions of the Gift Tax Act, 1990, the claim of exemption of the assessee-applicant does not have any legal basis.

Therefore, we find no legal infirmity in the impugned judgment and order passed by the High Court Division. It is elaborate, speaking and well composed. We are not inclined to interfere with the same.

Accordingly, all the leave petitions are dismissed without any order as to costs.

C.J.

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