

# Taxhelpline Case No. 111 of 2001

## Supreme Court of India

Petition for Special Leave to Appeal (Civil) No. 17435 of 1999, decided on 6th December, 1999.  
(Appeal by Special Leave from the judgment and order, dated July 21, 1999 of the Sikkim High Court in C. W. P. No. 18 of 1995).

Present: B. N. Kirpal and S. Rajendra Babu, JJ

P. P. Malhotra, Senior Advocate (A.K. Sanghi and Manish Pitak, Advocates with him) for Appellant.

**ALANKAR COMMERCIAL (PVT.) LTD.**

**Versus**

**ASSISTANT COMMISSIONER OF INCOME-TAX and others**

Income-tax---Charge of tax---Income accruing or arising in India is chargeable to tax under Income-tax Act---Company having its registered office in Sikkim--Notice under S.148 in respect of income accruing or arising in India to such company---Notice was valid---Indian Income Tax Act, 1961, Ss. 4 & 148.

The Indian Income-tax Act, inter alia, taxes income which accrues or arises in India. It is immaterial whether the petitioner-company has its head office in Sikkim or may be carrying on business activities there. The impugned notice under section 148 of the Income Tax Act, 1961, had been issued in relation to the income which was stated to have arisen in India and this could be done even if the petitioner had a company registered in Sikkim.

Alankar Commercial (Pvt.) Ltd. v. Asstt. C.I.T. (2000) 243 ITR 626 affirmed.

State of Sikkim v. Surendra Prasad Sharma AIR 1994 SC 2342 distinguished.

### **THIS ORDER PASSED BY:**

It is contended that Sikkim was not a part of India and at that time the Income-tax Act was not applicable in respect of the assessment year for which notice was served at New Delhi. Learned counsel for the petitioner relies upon the decision of this Court in State of Sikkim v. Surendra Prasad Sharma AIR 1994 SC 2342.

The aforesaid decision in Surendra Prasad Sharma's case (1994) AIR 1994 SC 2342 related to the employees employed in a company in Sikkim and the question which arose there was whether the Indian law applied or not. The question of applicability of the Income-tax Act did not arise in that case, therefore, the said decision has no relevance. The Indian Income-tax Act, inter alia, taxes income which accrues or arises in India. It is immaterial whether the petitioner company has its head office in Sikkim or may be carrying on business activities there. The impugned notice under section 148 of the Income-tax Act has been issued in relation to the income which is stated to have arisen in India and this can be done even if the petitioner has a company registered in Sikkim. The decision of the High Court calls for no interference.

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