(1988) 05 RAJ CK 0031

In the Rajasthan High Court

Case No : Income Tax Reference No. 47 of 1982

Commissioner of Income Tax — APPELLANT

Vs

Bal Mukund — RESPONDENT

Date of Decision : 13-05-1988

Acts Referred:
Income Tax Act, 1961 — Section 64(1)

Citation : (1990) 182 ITR 42

Hon'ble Judges : J.S. Verma, C.J;I.S. Israni, J

Bench : Division Bench

Advocate : V.K. Singhal, for the Appellant; Prem Asopa, for the Respondent

Judgement

J.S. Verma, C.J.—This reference u/s 256(1) of the Income Tax Act, 1961, at the instance of the Revenue, is to answer the following question of law, namely :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the share income of Rs. 9,290 arising to the minor, Narendra Kumar, son of Shri Bal Mukund, karta of the assessee-Hindu undivided family from the firm, Messrs. Laxmi Kant and Co., Baran, cannot he included in the hands of the assessee u/s 64 of the Income Tax Act, 1961 ?"

2. The relevant assessment year is 1979-80.

3. The assessee is a Hindu undivided family and not an individual. The question is whether the share income of the minor, Narendra Kumar, son of the karta of the Hindu undivided family, who was admitted to the benefits of partnership in a firm is to be included in the income of the assessee-Hindu undivided family while computing the total income of the assessee-Hindu undivided family in accordance with Section 64(1)(iii) of the Income Tax Act, 1961. In D. B. Income Tax Reference No. 12 of 1981, Commissioner of Income Tax Vs. Abhay Kumar, decided by us today, we have held that Section 64(1)(iii) of the Act applies where the minor child is of an individual who is the assessee as an individual ; and not where the assessee is a Hindu undivided family. The view of the Tribunal being in

consonance with the above decision, it has to be upheld.

4. Consequently, the reference is answered in the affirmative, against the Revenue and in favour of the assessee by holding that the Tribunal''s view is justified.

5. No costs.

