(1991) 04 KL CK 0017

In the High Court Of Kerala

Case No : Original Petition No. 4511 of 1987-S.

Commissioner of Income Tax APPELLANT

Vs

Bhadra Enterprises RESPONDENT

Date of Decision : 11-04-1991

Acts Referred:
Income Tax Act, 1961 — Section 256

Citation : (1992) 193 ITR 178

Hon'ble Judges : T.L. Viswanatha Iyer, J

Bench : Single Bench

Judgement

T.L. Viswanatha Iyer, J.—We are satisfied that the question of law raised by the petitioner do arise for consideration out of the order of the Tribunal. The Income Tax officer had set out the reasons why he rejected the accounts of the assessee and estimated the income. Particularly, he has referred to the reasons why he was estimating the sale, production and labour charges. He also gave the basis for the estimation of the income with reference to the income which the assessee had derived in the subsequent assessment year. The Tribunal does not appear to have adverted to the various aspects which the Income Tax Officer has relied on. We are, therefore, satisfied that there are questions of law arising for consideration. The questions raised by the petitioner in paragraph 7 of the original petition truly reflect the controversy between the parties. They have to be referred to this court for opinion.

2. We, therefore, allow this original petition. We direct the Income Tax Appellate Tribunal, Cochin Bench, to draw up a statement of the case and refer the following question of law for the opinion of this court u/s 256(2) of the Income Tax Act, 1961.

(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in finding that the Income Tax Officer did not reject the books of the assessee ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law that the income of Rs. 1,12,906 determined by the Income Tax Officer in the first instance has only to be taken as the reasonable business income of the assessee for this assessment year ?

