(1986) 08 AHC CK 0032

In the Allahabad High Court

Case No : Income Tax A. No. 140 of 1984

COMMISSIONER OF INCOME TAX — APPELLANT

Vs

C. P. HANDA. — RESPONDENT

Date of Decision : 07-08-1986

Acts Referred:
Income Tax Act, 1961 — Section 256

Citation : (1986) 57 CTR 236

Hon'ble Judges : R. R. Misra, J

Bench : Division Bench

Judgement

R. R. Misra, J. - Aggrieved against the order of Income Tax Appellate Tribunal, the CIT has raised the following question in his application under s. 256(2) of the IT Act, praying for a direction to the Income Tax Appellate Tribunal to refer the following alleged to be a question of law for the opinion of this Court :

"Whether the order of the Tribunal holding that the income of the assessee should be worked out by applying a net profit rate of 11.5% on gross receipts has not got vitiated for its failure to consider and duly appreciated the relevant facts on record ?"

2. It has been urged by ld. counsel for the applicant that the finding of the Income Tax Appellate Tribunal that it was a no accounts case is not correct. Firstly, the finding of the Tribunal in this behalf is essentially a finding of fact. Secondly, the question which is sought to be referred to this court is not a question that the aforesaid finding of the Tribunal perverse or arbitrary. In this view of the matter we find no force in this submission.

3. Another submission made by the ld. counsel for the applicant was that the Tribunal has ignored to consider certain materials on record. A perusal of paragraph 2 of the order dt. 19-5-1984, passed by the Income Tax Appellate Tribunal rejecting the reference application of the applicant, however, shows that nothing was pointed out by the Revenue before the Tribunal itself as to what

material has been ignored by the Tribunal from its consideration. This contention therefore does not merit consideration by us.

4. In the result we find that no statable question of law arises out of the appellate order of the Tribunal. The application has no merit. It is accordingly dismissed. Since nobody has appeared to oppose the present application here shall be order as to costs.