(1985) 12 MP CK 0020

In the Madhya Pradesh High Court

Case No : M.C.C. No. 38 of 1982

COMMISSIONER OF INCOME TAX — APPELLANT

Vs

DHANNAMAL. — RESPONDENT

Date of Decision : 17-12-1985

Acts Referred:
Income Tax Act, 1961 — Section 64

Citation : (1986) 55 CTR 213

Hon'ble Judges : J. S. Verma, Acting C.J.

Bench : Division Bench

Judgement

J. S. Verma, Actg. C.J. - This is a reference under s. 256(1) of the Income Tax Act at the instance of the revenue to answer the following questions of law :

"1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in observing that as a result of partial partition in an HUF, share income from the firm constituted by the erstwhile members of the HUF will be the income of the HUF consisting of Karta and his wife, and not the income of an individual ?

2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in coming to the conclusion that the share income of the minor could not be included under s. 64 of the IT Act, 1961, in the case of Shri Dhannamal ?"

2. The relevant assessment years in the present case are 1972-73 to 1975-76. In respect of some assessee, the same questions on the same facts for some other years were referred to this Court for decision and that decision is reported in Commissioner of Income Tax Vs. Dhannamal, . The decision was in favour of the revenue also, following the earlier decision, these questions have to be answered in favour of the revenue.

3. Consequently the reference is answered in favour of the revenue as under :

"1. The Appellate Tribunal was not justified in law in holding that the share income from the firm constituted by the erstwhile members of the HUF will be the income of the HUF consisting of the Karta and his wife. The share income of the assessee from the firm was his individual income.

2. The Appellate Tribunal was not justified in coming to the conclusion that the share income of the minors could be included under s. 64 of the Act."

There shall be no order as to costs.

