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(1990) 12 AHC CK 0080

In the Allahabad High Court

Case No : Income-tax Reference No. 258 of 1979

Commissioner of Income Tax APPELLANT

Vs

Educational Supplying and Co. RESPONDENT

Date of Decision : 05-12-1990

Acts Referred:
Income Tax Act, 1961 — Section 40

Citation : (1991) 189 ITR 624

Hon'ble Judges : B.P. Jeevan Reddy, C.J;V.N. Mehrotra, J

Bench : Division Bench

Final Decision : Allowed

Judgement

B.P. Jeevan Reddy, C.J.—u/s 256(1) of the Income Tax Act, 1961, the Tribunal has stated the following question :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was legally correct in law in deleting the additions made by the Income Tax Officer u/s 40(b) of the Income Tax Act, 1961, and as confirmed by the Appellate Assistant Commissioner ?"

2. In this case, the assessee is a registered firm. The assessment year concerned is 1976-77. During the relevant year, there were five partners. They were represented in their capacities as kartas of their respective Hindu undivided families in the firm. The assessee paid certain amount by way of interest to two of the partners on the deposits made by them in their individual capacity. This was disallowed by the Income Tax Officer. However, the Tribunal allowed the appeal filed by the assessee following its own decision in another matter.

3. We have heard learned counsel for the Revenue. None appears for the respondent. In view of the Full Bench decision of this court in COMMISSIONER OF Income Tax Vs. NITRO PHOSPHETIC FERTILIZER., , the question referred has to be answered in the negative, i.e., in favour of the Revenue and against the assessee. No costs.

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