(1991) 08 AHC CK 0026

In the Allahabad High Court

Case No : Income-tax Application No''s. 107 and 108 of 1991

Commissioner of Income Tax APPELLANT

Vs

Hari Om Agarwal RESPONDENT

Date of Decision : 05-08-1991

Acts Referred:
Income Tax Act, 1961 — Section 256, 263

Citation : (1992) 198 ITR 347

Hon'ble Judges : R.R. Misra, J;A.P. Misra, J

Bench : Division Bench

Judgement

A.P. Misra, J.—By means of the present applications u/s 256(2) of the Income Tax Act, 1961, the Revenue has sought for the following questions of law to be referred to this court :

"(1) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was legally correct in placing reliance on the assessment order passed on a date subsequent to the date of order u/s 263 ?

(2) If the answer to the above question is in the affirmative then, whether the Income Tax Appellate Tribunal was legally justified in not taking into consideration the subsequent facts ascertained on the basis of enquiries made subsequent to the date of the order u/s 263 which establish that the ladies had not earned any income at all and that the income belonged only to the assessee ?

(3) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in not upholding the order passed by the Commissioner of Income Tax u/s 263 of the Income Tax Act, 1961? "

2. Having heard learned counsel for the applicant and after going through the impugned order passed by the Tribunal, we find merit in the present applications. The present applications are, accordingly, allowed and the Income Tax Appellate Tribunal is directed to draw up a statement of the case with regard to the aforesaid questions of law and submit the same to this court for its decision.

