(2003) 05 AHC CK 0190

In the Allahabad High Court

Case No : IT Ref. No. 82 of 1983

Commissioner of Income Tax — APPELLANT

Vs

Kailash Kumar Dixit (HUF) — RESPONDENT

Date of Decision : 06-05-2003

Acts Referred:

Income Tax Act, 1961 — Section 171
Income Tax Act, 1961 — Section 171
Income Tax Act, 1961 — Section 171

Citation : (2003) 185 CTR 17

Hon'ble Judges : Ghanshyam Dass, J;B.S. Chauhan, J

Bench : Division Bench

Judgement

1. This is a reference u/s 256(1) of the IT Act, 1961. Following question has been referred for the opinion of this Court :

"Whether, on the facts and circumstances of the case, the Tribunal was justified in law in taking the view that a valid partial partition had been effected of the assessee-HUF on 30th June, 1976 ?"

2. Heard Sri Gulati, learned counsel for the assessee, and Sri Mahajan, learned counsel for Revenue.

3. The learned counsel at Bar are in agreement that the matter stands fully covered by the judgment of the Hon''ble Supreme Court in Apoorva Shantilal Shah, HUF Vs. Commissioner of Income Tax, Gujarat-I, Ahmedabad, , wherein it has been held that a partial partition of any joint family property by the father, between himself and his sons, does not become invalid on the ground that there has been no equal distribution amongst the co-sharers and the father was having a right to give consent for partition on behalf of his minor sons.

4. In view of the above, the reference is decided in favour of the assessee and against the Revenue.