(2003) 05 AHC CK 0100

In the Allahabad High Court

Case No : IT Reference No. 82 of 1983 R.A. No. 178 of 1982 6 May 2003

Commissioner of Income Tax APPELLANT

Vs

Kailash Kumar Dixit RESPONDENT

Date of Decision : 06-05-2003

Acts Referred:
Income Tax Act, 1961 — Section 256

Citation : (2003) 132 TAXMAN 597

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

Bench : Full Bench

Advocate : Mahajan, for the Revenue Gulati, for the Assessee, for the Appellant;

Judgement

This is a Reference u/s 256(1) of the Income Tax Act, 1961. Following question has been referred for the opinion of this court :

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in taking the view that a valid partial partition had been effected of the assessee-HUF on 30-6-1976 ?"

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.

