

(2004) 09 AHC CK 0080

In the Allahabad High Court

Case No : IT Reference No. 235 of 1984 28 September 2004

Commissioner of Income Tax

APPELLANT

Vs

Kesho Ram

RESPONDENT

Date of Decision : 28-09-2004

Acts Referred:

Income Tax Act, 1961 — Section 256

Citation : (2005) 145 TAXMAN 473

Hon'ble Judges : R.K. Agrawal, J;Prakash Krishna, J

Bench : Full Bench

Advocate : A.N. Mahajan, for the Revenue. V. Gulati, for the Assessee, for the Appellant;

Judgement

1. The Income Tax Appellate Tribunal, New Delhi has referred the following question of law u/s 256(1) of the Income Tax Act, 1961, hereinafter referred to as the Act, for opinion to this court:

"Whether on the facts and in the circumstances of the case, the Tribunal was legally correct in upholding the order of the Appellate Assistant Commissioner holding that the income of Rs. 37,236 was the income of the groups namely Kesho Ram Shanti Devi, Vijay Kumar Ashok Kumar and Jugmonder Das Dinesh Kumar?"

2. Briefly stated the facts giving rise to the present Reference are as follows:

The respondent assessee is a HUF It filed its return of income for the assessment year 1978-79 declaring a total income of Rs. 10,370. The Income Tax Officer added the income earned by Groups HUFs styled as Kesho Ram Shanti Devi, Vijay Kumar Ashok Kumar and Jugmonder Das Dinesh Kumar in the income of the assessee, as according to him the partial partition has not been accepted by the department. Feeling aggrieved the assessee preferred an appeal before the Appellate Assistant Commissioner, who deleted the addition. The revenue's before the Tribunal has failed.

3. We have heard Sri A.N. Mahajan, learned standing counsel for the revenue and Shri V. Gulati, learned counsel who appears for the respondent. It has been stated by Shri Mahajan that partial partition has been accepted, therefore, income referred to above has rightly been deleted from the income of the respondent assessee.

4. In view of the foregoing discussions we answer the question of law referred to us in the affirmative, i.e., in favour of assessee and against the revenue. However, there will be no orders as to costs.