(1997) 09 AHC CK 0038

In the Allahabad High Court

Case No : Income-tax Reference No. 308 of 1981

Commissioner of Income Tax — APPELLANT

Vs

Lalji Agarwal — RESPONDENT

Date of Decision : 08-09-1997

Acts Referred:
Income Tax Act, 1961 — Section 16, 64(1)

Citation : (1999) 153 CTR 500 : (1998) 234 ITR 820

Hon'ble Judges : R.K. Gulati, J;Om Prakash, J

Bench : Division Bench

Judgement

1. The following question has been referred for the opinion of this court by the Income Tax Appellate Tribunal for the assessment year 1976-77 :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in accepting the assessee''s claim for standard deduction u/s 16(i) in respect of his wife''s salary income included in his total income by virtue of the provisions of Section 64(1)(ii) of the Income Tax Act, 1961 ?"

2. The facts are that the wife of the assessee received salary, being a director of the company, Ashok Udyog Private Limited of which the assessee was the managing director. The income of the assessee''s wife was included in the hands of the assessee u/s 64(1)(ii) of the Income Tax Act, 1961, without allowing standard deduction. The question arose whether the net income after allowing standard deduction is to be included in the income of the assessee u/s 64(1)(ii) or the gross income.

3. Exactly the same controversy came up before the Karnataka High Court in Commissioner of Income Tax, Karnataka-I Vs. S.K. Nayak, . There, the Karnataka High Court held as follows (page 792) ;

"It seems to us that this question should not detain us longer. If the wife herself had been the assessee, there would not have been any doubt as to her right to compute her net income. She is entitled to the standard deduction and other expenses. If that is so, we fail to see any good reason why gross income should be clubbed with the income of her husband u/s 64. It would be contrary to the scheme of the Act itself not to allow deductions before clubbing the income."

We are in agreement with the view taken by the Karnataka High Court.

4. Following the aforesaid decision of the Karnataka High Court, we answer the aforementioned question in the affirmative, that is, in favour of the assessee and against the Revenue.

