(2003) 05 AHC CK 0099

In the Allahabad High Court

Case No : IT Reference No. 211 of 1982 12 May 2003 A.Y. 1976-77

Commissioner of Income Tax APPELLANT

Vs

Mahendra Kumar RESPONDENT

Date of Decision : 12-05-2003

Acts Referred:

Citation : (2003) 132 TAXMAN 888

Hon'ble Judges : Sudir Narain, J;D.P. Gupta, J

Bench : Full Bench

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

Judgement

Heard Sri A.N. Mahajan, learned counsel for the applicant, and Sri Vikram Gulati, learned counsel for the respondent.

2. The reference has been filed by the revenue against the order dated 31-7-1981 passed in ITA No. 2044 (Del) of 1980. The following questions of law were referred :

"1. Whether on the facts and in the circumstances of the case, the Tribunal was legally correct in holding that the share income from M/s. Goverdhan Dass Mahendra Kumar amounting to Rs. 39,510 cannot be included in the hands of the assessee for the assessment year 1976-77 ?

2. Whether on the facts and in the circumstances of the case, the Tribunal was legally correct in holding that the interest income of Rs. 4,596 from M/s. Goverdhan Dass Mahendra Kumar cannot be included in the hands of the assessee for the assessment year 1976-77 ?

3. Whether on the facts and in the circumstances of the case, the Tribunal was already correct in holding that the share income of Rs. 2,256 from M/s. Sisona Gur and Khandsari Udyog cannot be validly included in the hands of the assessee during the assessment year 1976-77?"

The question regarding validity of partition was considered in parallel and similar case of CIT v. Shyam Lal 2001 UPTC 777 wherein it was held that it was not necessary to define the share of each member of each group and that partition by allotting a share of the property to a group was valid.

3. In view of the said decision the views of the Tribunal on all questions referred to above are upheld. The reference application is accordingly disposed of.

4. The parties shall, however, bear their own costs.