(1991) 04 RAJ CK 0025

In the Rajasthan High Court

Case No : Income Tax Reference Application No. 16 of 1987

Commissioner of Income Tax APPELLANT

Vs

Pooranchand RESPONDENT

Date of Decision : 24-04-1991

Acts Referred:
Income Tax Act, 1961 — Section 164, 164(1), 164(4), 256

Citation : (1991) 192 ITR 107

Hon'ble Judges : S.C. Agrawal, C.J;M.B. Sharma, J

Bench : Division Bench

Advocate : V.K. Singhal, for the Appellant; N.M. Ranka, for the Respondent

Judgement

1. Having heard learned counsel for the parties, we are satisfied that the following questions of law arise in this reference :

"(i) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of Section 164(1) itself are not applicable and both the beneficiaries and their shares are known and determinate ?

(ii) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in upholding the decision of the Appellate Assistant Commissioner about the charging of rate of tax by treating the assessee as an association of persons on the rates applicable to the income of such association ?

(iii) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in dismissing the appeal of the Department and thereby upholding the decision of the Appellate Assistant Commissioner to treat the assessee as a specified trust with known beneficiaries and their determinate shares and also that the assessee is not liable to be charged to tax at the maximum rate u/s 164(1) of the Income Tax Act, 1961 ?"

2. The Tribunal is directed to draw up a statement of case and refer the same to

the High Court.

