(2001) 10 DEL CK 0095

In the Delhi High Court

Case No : IT Reference No. 185 of 1983 9 October 2001

Commissioner of Income Tax APPELLANT

Vs

Sant Bir Bros RESPONDENT

Date of Decision : 09-10-2001

Acts Referred:

Citation : (2002) 120 TAXMAN 884

Hon'ble Judges : Arijit Pasayat, C.J;D.K. Jain, J

Bench : Full Bench

Advocate : R.C. Pandey and Ms. Prem Lata Bansal, for the Revenue, for the Appellant;

Judgement

1. Following questions have been referred for opinion of this court u/s 256(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act) by the Tribunal, Delhi Bench D :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in holding that Sarvashri Sant Bir Singh, Shiv Bir Singh and Amar Bir Singh were co-owners of the properties at 6, Jor Bagh and C-27-28, South Extension, New Delhi since 1974-75 ?

2. Whether the Tribunal was correct in holding that the capital gains arising on account of sale of property at C-27-28, South Extension, New Delhi, is taxable equally amongst the three co-owners and not in the hands of the assessed-firm?"

The dispute relates to the assessment year 1976-77.

2. The Tribunal while deciding the appeal took note of the fact that on the question of grant of registration for several years the conclusions were to be dependent upon the facts and situation prevailing. For the assessment year in question, the income from sale of property was held to be income from capital gains and, Therefore, was to be taxed in the hands of the co-owners separately to the extent of their one-third share each and not in the hands of the firm. The

conclusions of the Tribunal are essentially factual and do not give rise to any question of law. We, accordingly, decline to answer the questions referred.

3. Reference is, accordingly, disposed of.

