(1996) 02 AHC CK 0005

In the Allahabad High Court

Case No : Income Tax A. No. 400 of 1992

Commissioner of Income Tax APPELLANT

Vs

Yash Kumar Rastogi RESPONDENT

Date of Decision : 12-02-1996

Acts Referred:
Income Tax Act, 1961 — Section 256

Citation : (1996) 221 ITR 66

Hon'ble Judges : Om Prakash, J;M. Katju, J

Bench : Division Bench

Judgement

1. Affidavit of service has been filed. The assessee despite sufficient service has not put in appearance and we, therefore, heard standing counsel only.

2. In this application made u/s 256 of the Income Tax Act, 1961, to direct the Income Tax Appellate Tribunal to draw up a statement of the case and refer the following questions for the assessment year 1981-82 :.

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was, in law, justified in upholding the order of the Appellate Assistant Commissioner who had directed the Income Tax Officer to take the status of the assessee as a Hindu undivided family instead of individual adopted by the Income Tax Officer ?

2. Whether an individual-assessee, who was unmarried at the time of partition of the bigger Hindu undivided family, can, on subsequently getting married claim the status of a Hindu undivided family in respect of the assets received on partition ?"

3. Inasmuch as, in our opinion, the above questions are questions of law, we direct the Appellate Tribunal to refer the above questions for its opinion.

4. The application is allowed.

