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(2005) 01 AHC CK 0204

In the Allahabad High Court

Case No : WT Reference No. 147 of 1988 7 January 2005

CWT APPELLANT

Vs

Jitendra Kumar (HUF) RESPONDENT

Date of Decision : 07-01-2005

Acts Referred:

Citation : (2005) 148 TAXMAN 466

Hon'ble Judges : R.K. Agrawal, J;Prakash Krishna, J

Bench : Full Bench

Advocate : Shambhoo Chopra, for the Revenue and Shakeel Ahmad, for the Assessee, for the Appellant;

Judgement

The Income Tax Appellate Tribunal, Allahabad, has referred the following question of law u/s 27(1) of the Wealth Tax Act, 1957 (hereinafter refer-red to as "the Act") for opinion to this Court:

"Whether on the facts and circumstances of the case, the Tribunal was justified in holding that the capital standing to the credit of Jitendra Kumar in M/s. Ratan Cold Storage along with the share of Jitendra Kumar in the appreciation of the value of the assets of M/s. Ratan Cold Storage is not assessable in the hands of the assessee in the status of HUF?"

2. The reference relates to the assessment years 1982-83 to 1985-86.

3. We have heard Sri Shambhoo Chopra, the learned standing counsel for the revenue and Sri Shakeel Ahmed, learned counsel for the appearing for the respondent.

4. The facts of the present case are similar to that of ITR No. 209 of 1988, ITR No. 62 of 1988 and WTR No. 70 of 1980 decided on 6-1-2005. This court has held that the share of profit in the firm and its accretion was an individual income of the respondent Jitendra Kumar and not assessable to the HUF.

5. Respectfully following the aforesaid decision, we answer the question referred

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to us in the affirmative, i.e., in favour of the assessee and against the revenue. However, there shall be no order as to costs.

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