(1985) 02 AHC CK 0004

In the Allahabad High Court

Case No : Income-tax Reference No. 225 of 1972

Maharaja Dharmendra Pratap Narain Singh APPELLANT

Vs

State of Uttar Pradesh RESPONDENT

Date of Decision : 18-02-1985

Acts Referred:
Uttar Pradesh Agricultural Income Tax Act, 1948 — Section 24, 6A

Citation : (1985) 48 CTR 129 : (1985) 153 ITR 389

Hon'ble Judges : Anshuman Singh, J

Bench : Single Bench

Advocate : Rajendra Kumar, for the Appellant;

Judgement

Anshuman Singh, J.—This is a reference u/s 24 of the U.P. Agricultural Income Tax Act, 1948. The following questions have been referred for the opinion of this court :

"1. Whether the sale of timber from the planted groves prior to the introduction of Section 6A in the Agricultural Income Tax Act was liable to be assessed as agricultural income under the Act ?

2. If the answer to question No. 1 be in the affirmative, whether, on the facts and in the circumstances of the case, the amount representing the sale proceeds of planted groves and trees was a capital receipt and as such not taxable under the Agricultural Income Tax Act ?

3. Whether, on the facts and circumstances of the case, the sum of Rs. 5,000 being the advance collection of rent was taxable in the assessment year in question or whether this should have been assessed for the year to which the rent related ?"

2. Counsel for the parties state that the questions involved in this case except question No. 3 have been answered by this court in A.I.T.R. No. 824 of. 1972--Maharaja Dharmendra Pratap Narain Singh Vs. State of Uttar Pradesh, . Learned

counsel further states that in view of the fact that questions Nos. 1 and 2 are to be answered in favour of the assessee, it is not necessary to answer question No. 3.

3. In view of the above statement, the first question is answered by saying that the assessee was not liable to tax for the sale of timber from the planted groves. So far as the second question is concerned, that is really academic, but as it refers to the sale proceeds of planted groves and trees, in order to avoid any confusion, it is necessary to answer it by saying that the sale proceeds of planted groves and trees were capital receipts and as such not liable to tax. The third question is not to be answered. The assessee is entitled to its costs, which is assessed at Rs. 200. Counsel fee is assessed at the same figure.