(2002) 10 AHC CK 0073

In the Allahabad High Court

Case No : IT Ref. No. 250 of 1983 10 October 2002

Paras Kumar Jain APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 10-10-2002

Acts Referred:
Income Tax Act, 1961 — Section 147, 64

Citation : (2003) 126 TAXMAN 179

Hon'ble Judges : S.K. Sen, C.J;Ashok Bhushan, J

Bench : Full Bench

Advocate : Piyush Agrawal, for the Assessee Prakash Krishna, for the Revenue, for the Appellant;

Judgement

At the instance of assessee the Income Tax Appellate Tribunal has referred the following questions of law to this court for its opinion :

"1. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the share income of the assessee''s wife and minor children from the firm in which assessee was also a partner not as an individual but as karta of the family, could be clubbed with the assessee''s income u/s 64(1)(iii) of the Income Tax Act, 1961 ?

2. Whether on the facts and in the circumstances, the Appellate Tribunal was right to hold that the assessee was duty bound to disclose share income of wife and minor children in his return of income or during the course of assessment and since it was not done, initiation of proceedings u/s 147(a) was according to law ?"

We have heard Sri Piyush Agrawal, learned Advocate for the assessee and Sri Prakash Krishna, learned Advocate appearing for the revenue and have perused the records of the case.

In view of the judgment and decision of the Supreme Court in the case of Commissioner of Income Tax, Ludhiana, etc.etc. Vs. Shri Om Prakash, etc.etc., , we answer the question No. 1 referred to, in negative and decide the reference in favour of the assessee and against the revenue. Since question No. 1 has been decided, question No. 2 does not survive.

The reference is, accordingly, disposed of.

