(1996) 02 AHC CK 0099

In the Allahabad High Court

Case No : Income-tax Reference No. 207 of 1980

Surendra Mahan Seth APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 16-02-1996

Acts Referred:

Citation : (1996) 221 ITR 239

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

Bench : Division Bench

Final Decision : Disposed Off

Judgement

1. At the instance of the assessee, the Income Tax Appellate Tribunal referred the following question to this court for its opinion :

" Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the deposits constituted income of the firm from undisclosed sources ?"

2. From a perusal of the statement of the case, it clearly appears that the deposits had been made by the partners on the very first day when the partnership firm came into existence. The question for consideration is whether such deposits can be taken to be the income of the assessee-firm. A similar question came up for consideration before this court in Income Tax Reference No. 152 of 1990- India Rice Mills Vs. Commissioner of Income Tax, , and then this court held that the onus was on the partners to explain the source of the deposits made on the very first day when they entered into partnership and if they failed, the amount could have been added in their hands only and not in the hands of the assessee-firm.

3. Following the said decision, we answer the above question in the negative, i.e., in favour of the assessee and against the Revenue.

4. A copy of this order be sent down to the Appellate Tribunal to enable it to pass

an order conformably to our order.

