Cit Vs. Sri Sidh and Co.

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Court : Allahabad

Decided On : Jan-03-2003

Reported in : [2003]131TAXMAN206(All)

Appeal No. : IT Ref. No. 180 of 1983 3 January 2003

Appellant : Cit

Respondent : Sri Sidh and Co.

Judgement :
ORDER

M. Katju, J.

Heard counsel for the parties.

2. This is a reference under section 256(1) of the Income Tax Act in which the following question of law has been referred to us for our opinion :

'Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in holding that where there is a change in the constitution of a firm, two assessments have to be made, one in respect of the income derived before reconstitution and another in respect of the income derived after reconstitution of the firm ?'

3. The assessee is a firm and the relevant assessment year is 1979-80. During this assessment year one of the partners Sri Beni Prasad Tandon died on 2-6-1978. According to clause 14 of the partnership deed the firm was not to be dissolved on the death of one of the partners. In view of the decision in CIT v. Empire Estate : [1996]218ITR355(SC) there was no dissolution of the assessee firm. Hence, there has to be a single assessment and not two assessments.

4. We, however, reframe the question referred to us as follows :

'Whether there was any dissolution of the firm or only reconstitution on account of death of one of the partners and consequently whether there will be two assessments or only one assessment ?'

5. We answer the above question in the negative, i.e., in favour of the department and against the assessee, and hold that there will be only one assessment and not two assessments.