Cit Vs. Kailash Kumar Dixit

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SooperKanoon Citation : sooperkanoon.com/492384

Court : Allahabad

Decided On : May-06-2003

Reported in : [2003]132TAXMAN597(All)

Appeal No. : IT Reference No. 82 of 1983 R.A. No. 178 of 1982 6 May 2003

Appellant : Cit

Respondent : Kailash Kumar Dixit

Advocate for Pet/Ap. : Mahajan, *for the Revenue* Gulati, *for the Assessee*

Judgement :
ORDER

This is a Reference under section 256(1) of the Income Tax Act, 1961. Following question has been referred for the opinion of this court :

'Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in taking the view that a valid partial partition had been effected of the assessee-HUF on 30-6-1976 ?'

2. Heard Sri Gulati, learned counsel for the assessee and Sri Mahajan, learned counsel for revenue.

3. The learned counsel at bar are in agreement that the matter stands fully covered by the judgment of the Hon'ble Supreme Court in Apoorva Shantilal Shah

v. CIT : [1983]141ITR558(SC) , wherein it has been held that a partial partition of any joint family property by the father, between himself and his sons, does not become invalid on the ground that there has been no equal distribution amongst the co-sharers and the father was having a right to give consent for partition on behalf of his minor sons.

4. In view of the above, the reference is decided in favour of the assessee and against the revenue.