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SooperKanoon Citation : sooperkanoon.com/492540

Court : Allahabad

Decided On : Aug-26-2003

Reported in : [2004]136TAXMAN322(All)

Appeal No. : IT Reference No. 149 of 1983 26 August 2003

Appellant : Parmatma Prasad

Respondent : Cit

Judgement :

This is an Income Tax Reference under section 256(2) of the Income Tax Act, in which the following questions have been referred to us for our opinion :

'1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was legally justified in holding the difference between the assessed income and the income returned, namely, Rs. 12,000 as representing the applicants concealed income ?

2. Whether on the facts and in the circumstances of the case, the provisions of the Explanation to section 271(1)(c) were correctly applied when the Explanation to section 271(1)(c) was deleted with effect from 1-4-1976 ?

3. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee had not discharged its burden within the meaning of Explanation to section 271(1)(c) as it stood at the

relevant time and whether there was any material for such a finding ?'

2. We have carefully perused the appellate order of the Tribunal and have heard learned counsel for the parties.

3. The finding that assessee has not been able to discharge the burden under the Explanation to section 271(1)(c) of the Income Tax Act, is a finding of fact and we cannot interfere with the same in this reference. Hence, the questions referred to us are decided in the affirmative, i.e., in favour of the department and against the assessee.