Paras Kumar JaIn Vs. Cit

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Court : Allahabad

Decided On : Oct-10-2002

Reported in : [2003]126TAXMAN179(All)

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

Appellant : Paras Kumar Jain

Respondent : Cit

Advocate for Pet/Ap. : Piyush Agrawal, *for the Assessee* q Prakash Krishna, *for the Revenue*

Judgement :
ORDER

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 under section 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 under section 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 CIT v. Shri Om Prakash : [1996]217ITR785(SC) , 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.