Cit Vs. Amar Iron Stores

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SooperKanoon Citation : sooperkanoon.com/492725

Court : Allahabad

Decided On : Dec-13-2002

Reported in : [2003]131TAXMAN249(All)

Appeal No. : IT Ref. Case No. 17 of 1986 13 December 2002

Appellant : Cit

Respondent : Amar Iron Stores

Judgement :

Yatindra Singh, J.

This is a reference under section 256(2) of the Income Tax Act on the direction of this court in which the following question has been referred to us for opinion :

'Whether on the facts and in the circumstances of the case, the Tribunal was legally correct in upholding the order of the Commissioner (Appeals) that two assessments should have been made and the income of Rs. 1,14,420 for the period 21-9-1976 to 31-3-1977 as deleted from the hands of the appellant-firm be assessed separately ?'

The assessee in this case is a firm and the assessment year involved is 1977-78.

2. One of the partners Gulshan Kumar died on 18-9-1976 and there is no mention in the Partnership deed that the partnership will continue after the death of any partner. In view of this and the decision given by the Supreme Court in CIT v. Empire Estate : [1996]218ITR355(SC) , the partnership stood dissolved and as such there should be two assessments.

3. In view of this we answer the question in the affirmative, i.e., in favour of the assessee and against the department.