Cit Vs. Prem Chand and Sons

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SooperKanoon Citation : sooperkanoon.com/495015

Court : Allahabad

Decided On : Feb-11-2004

Reported in : [2004]141TAXMAN355(All)

Appeal No. : IT Reference No. 74 of 1984 11 February 2004

Appellant : Cit

Respondent : Prem Chand and Sons

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

Judgement :
ORDER

We have heard Shri A.N. Mahajan, learned counsel for appellant and Shri Vikram. Gulati, learned counsel appearing for the respondent.

2. This is an ITR under section 256(1) of the Income Tax Act, 1961 in which the following question has been referred to us for our opinion

'Whether on the facts and in the circumstances of the case, the Tribunal was legally correct in upholding the order of the Appellate Assistant Commissioner of Income Tax excluding the share income from M/s. Shamli Service Station, Shamli from the hands of the HUF v. Prem Chand & Sons ?'

3. The aforesaid question referred by the Tribunal is covered by the decision of this court in CIT v. Brahma Swarup & Sons (2002) 253 ITR 604. It has been held that partial partition between the groups of HUF members was valid and the question is covered by the aforesaid decision.

4. The question referred to us, therefore, is answered in affirmative, i.e., in favour of the assessee and against the department.