Cwt Vs. Jitendra Kumar (Huf)

Cwt Vs. Jitendra Kumar (Huf)

SooperKanoon Citation : sooperkanoon.com/495626

Court : Allahabad

Decided On : Jan-07-2005

Reported in : [2005]148TAXMAN466(All)

Appeal No. : WT Reference No. 147 of 1988 7 January 2005

Appellant : Cwt

Respondent : Jitendra Kumar (Huf)

Advocate for Pet/Ap. : Shambhoo Chopra, *for the Revenue*. Shakeel Ahmad, *for the Assessee*

Judgement :
ORDER

The Income Tax Appellate Tribunal, Allahabad, has referred the following question of law under section 27(1) of the Wealth Tax Act, 1957 (hereinafter refer-red to as 'the Act') for opinion to this Court:

'Whether on the facts and circumstances of the case, the Tribunal was justified in holding that the capital standing to the credit of Jitendra Kumar in M/s. Ratan Cold Storage along with the share of Jitendra Kumar in the appreciation of the value of the assets of M/s. Ratan Cold Storage is not assessable in the hands of the assessee in the status of HUF?'

2. The reference relates to the assessment years 1982-83 to 1985-86.

3. We have heard Sri Shambhoo Chopra, the learned standing counsel for the revenue and Sri Shakeel Ahmed, learned counsel for the appearing for the respondent.

4. The facts of the present case are similar to that of ITR No. 209 of 1988, ITR No. 62 of 1988 and WTR No. 70 of 1980 decided on 6-1-2005. This court has held that the share of profit in the firm and its accretion was an individual income of the respondent Jitendra Kumar and not assessable to the HUF.

5. Respectfully following the aforesaid decision, we answer the question referred to us in the affirmative, i.e., in favour of the assessee and against the revenue. However, there shall be no order as to costs.