Cit Vs. Brig. Kapil Mohan

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Court : Delhi

Decided On : May-31-2001

Reported in : [2001]119TAXMAN226(Delhi)

Appeal No. : IT Reference No. 144 of 1995 31 May 2001

Appellant : Cit

Respondent : Brig. Kapil Mohan

Advocate for Pet/Ap. : R.C. Pandey and; Ms. Prem Lata Bansal,;for the Revenu

Judgement :

Heard the learned counsel for the revenue.

At the instance of the revenue following questions have been referred under section 256(1) of the Income Tax Act, 1961 I(hereinafter referred to as the Act) for opinion of this court :

'1. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the provisions of section 64(2) of the Income Tax Act, 1961 did not apply to the shares received by the assessed and thereby deleting the dividend income of Rs. 47,757 from his taxable income

2. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was justified in holding that the trust settled for the benefit of the

sole beneficiary, 1st son of Shri Rakesh Mohan who was unborn at the time of creation of the trust, is a valid trust.'

2. The dispute relates to the assessment year 1986-87.

3. So far as the first issue is concerned, our judgment in CWT/CIT v. Lt. Col. Kapil Mohan : [2001]251ITR386(Delhi) will cover this case also. Directions given for rehearing by the Tribunal on the factual aspects shall also govern this question. So far as the second question is concerned, we had occasion to deal with the similar issue in CIT v. Brig. Kapil Mohan (2001) 252 ITR 830 , which will govern this question also. The answer to the question would be in the affirmative, in favor of the assessed and against the revenue.

4. Reference is disposed of accordingly.