

(1992) 08 AHC CK 0041

Allahabad High Court

Case No: Income-tax Reference No. 133 of 1980

Amar Nath Onkar Nath

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

Date of Decision: Aug. 31, 1992**Acts Referred:**

- Income Tax Act, 1961 - Section 40

Citation: (1993) 200 ITR 452**Hon'ble Judges:** R.K. Gulati, J; Om Prakash, J**Bench:** Division Bench

Judgement

1. At the instance of the Revenue, the Income tax Appellate Tribunal has referred u/s 256(1) of the Income tax Act, 1961, the following question relating to the assessment year 1974-75 to this court for its opinion :

"Whether, on the facts and in the circumstances of the case and on a proper interpretation of Section 40(b) of the Income Tax Act, 1961, the Appellate Tribunal was justified in holding that the interest of Rs. 4,054 paid to Sri Amar Nath Agarwal and Rs. 4,075 paid to Sri Onkar Nath Agarwal on amounts brought in by them in their individual capacity was not an admissible deduction even though the partners of the assessor's firm were not these persons in their individual capacity but the Hindu undivided families of which they were karta ?"

2. In [COMMISSIONER OF Income Tax Vs. NITRO PHOSPHETIC FERTILIZER.](#), which completely answered the aforesaid question, the Full Bench held that where a karta of a Hindu undivided family was a partner in a representative capacity and money was lent in individual capacity by him to the firm, the interest payable is liable to be disallowed u/s 40(b) (prior to April 1, 1985).

3. Following the Full Bench decision, we answer the aforementioned question in the affirmative, that is, against the assessee and in favour of the Revenue.