(2003) 05 AHC CK 0240

Allahabad High Court

Case No: IT Reference No. 233 of 1983 13 May 2003

Commissioner of Income Tax		APPELLANT
	Vs	
K.M. Sinha and Bros.		RESPONDENT

Date of Decision: May 13, 2003

Citation: (2003) 132 TAXMAN 90

Hon'ble Judges: Sudhir Narain, J; D.P. Gupta, J

Bench: Full Bench

Advocate: A.N. Mahajan and Dhananjay Awasthi, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

Heard Shri A.N. Mahajan, learned counsel for the applicant; and Shri Dhananjay Awasthi, learned counsel for the revenue.

2. The following question of law has been referred to this court for opinion :

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in upholding the order of the Commissioner (Appeals) directing the Income Tax Officer to frame separate assessments for the periods 24-1-1977 to 9-12-1977 and 10-12-1977 to 11-2-1978 ?"

3. In COMMISSIONER OF INCOME TAX Vs. EMPIRE ESTATE., , it has been held that if one of the partners dies and there is no clause in the partnership deed that if any of the partners dies the partnership shall dissolved, two separate assessments are to be made.

4. In view of the above decision, the order of the Appellate Tribunal holding that two separate assessments be made is justified and legally correct and we answer the question referred to above in affirmative, i.e., in favour of the assessee and against the Commissioner.

5. The Reference is accordingly disposed of. As none appeared for the assessee there will be no orders as to costs.