

(2002) 12 MAD CK 0193**Madras High Court****Case No:** Tax Case (Reference) No. 297 of 1999 2 December 2002

Srinivasan Co.

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

Date of Decision: Dec. 2, 2002**Citation:** (2003) 130 TAXMAN 489**Hon'ble Judges:** N.V. Balasubramanian, J; K. Raviraja Pandian, J**Bench:** Full Bench**Advocate:** R. Janakiraman, for the Assessee Mrs. Pushya Sitharaman, for the Revenue, for the Appellant;**Judgement**

N.V. Balasubramanian, J.

In pursuance of the directions of this court, the Income Tax Appellate Tribunal has stated the case and referred the following questions of law :

"1. Whether on the facts and in the circumstances of the case, the Tribunal was right in computing the income with reference to the application of section 40(b) of the Income Tax Act, 1961 for the assessment year 1984-85 while there was an amendment introduced by the Taxation Laws (Amendment) Act, 1984 with effect from 1-4-1985?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the reopening of the assessment u/s 147 is valid in law?"

2. The assessment year involved is 1984-85.

3. Mrs. Pushya Sitharaman, learned senior standing counsel for the revenue fairly submits that the issues raised in both the questions are covered against the revenue by the decision of the Supreme Court in Brij Mohan Das Laxman Das Vs. Commissioner of Income Tax, Allahabad. Following the said decision of the Supreme Court, both the questions of law referred to us are answered in favour of the assessee and against the revenue. In the circumstances of the case, there will be

no order as to costs.