D.B. Madan vs Commissioner Of Income-Tax on 25 March, 1991

Equivalent citations: 1992(60)ELT679(SC), [1991]192ITR344(SC), AIRONLINE 1991 SC 49, (1992) 102 CUR TAX REP 169, (1991) 192 ITR 344, (1992) 106 TAXATION 366, (1997) 68 ECR 567, (1992) 60 ELT 679, (2000) 1 SCALE 476, (2014) 1 WLC(SC)CVL 500, AIRONLINE 1991 SC 113

Bench: M.N. Venkatachaliah, N.M. Kasliwal

JUDGMENT

1. Heard learned counsel on both sides. Special leave granted.

2. The High Court declined to call upon the Appellate Tribunal to state a case and refer a question of law said to arise out of the Tribunal's appellate order for its opinion. The circumstance that, in doing so, the High Court relied on a decision which in turn followed an earlier one in CIT v. T.S. Hajee Moosa and Co. (Mad) implied that a question of law did arise, but the question, in view of the earlier decision, was held as not a referable question of law. It is always open to the High Court to follow its earlier decision and answer the question of law one way or the other according as whether the view taken in the earlier case commends itself to it or whether, in its opinion, that earlier view needs reconsideration. But it cannot always be said that, in all cases where a similar question of law had been answered in an earlier case in a particular way, an identical question of law arising in a later case would cease to be a referable one and, therefore, the course to be adopted is to reject a reference under Section 256(2).

3. Inasmuch as, in our opinion, a question of law does arise, the orders of the High Court dated September 1, 1986 and November 2, 1989 are set aside and the Income-tax Appellate Tribunal is directed to state a case and refer the following question of law for the opinion of the High Court :

> Whether, on the facts and circumstances of the case, the Tribunal was justified in holding that the expenditure on the air travel of the assessee's wife was not incurred wholly and exclusively for the purpose of the business of the assessee and that the benefit derived by the wife would detract from the exclusiveness of the outlay so as to render it ineligible as a deductible expenditure ?

4. The appeals are disposed of accordingly.