

**REFERENCE UNDER THE INCOME-TAX
ACT, 1922.**

Before Courtney Terrell, C. J. and Agarwala, J.

SONU LAL

v.

COMMISSIONER OF INCOME-TAX, BIHAR & ORISSA.*

Income-tax Act, 1922 (Act XI of 1922), section 63—service of notice on firm, whether sufficient in law.

Where the members of a joint Hindu family carried on the family business under the name of two members, who were dead and notices under the Income-tax Act were issued in the name of the firm and served on the karta of the family, held, that it was a sufficient compliance with the provisions of the section.

Reference under section 66(3) of the Income-tax Act, 1922.

The facts of the case material to the report are set out in the judgment of Agarwala, J.

Raj Kishore Prasad, for the assessee.

S. M. Gupta, for the Commissioner of Income-tax.

AGARWALA, J.—The Commissioner of Income-tax was called upon by this Court to state a case on the following question :

Whether the assessment made in this case in the names of Gajo Ram and Basant Ram, who are dead, is valid?

The findings of fact of the Commissioner are that the assessee, a Hindu undivided family, carry on a family business under the name and style of Gajo Ram Basant Ram. Gajo Ram and Basant Ram have been dead for some years but the business is and always has been carried on in their names. The notices required under the Act were issued in the

*Miscellaneous Judicial Case no. 39 of 1936. *In re* Statement of case under section 66(3) of the Income-tax Act XI of 1922, by the Commissioner of Income-tax, Bihar and Orissa, dated the 27th November, 1936.

1937.

November,
15.

1937. trading name of the family, i.e., Gajo Ram Basant
 SONU Ram, and were served on the Karta of the family
 LAL They were accepted by him and he appeared in the
 v. proceedings before the Income-tax Officer and filed
 COMMISS- a return. After the assessment had been made, he
 SIONER OF appealed to the Assistant Commissioner objecting to
 INCOME-TAX, the assessment on the ground that the demand notices
 BIHAR had been served in the names of Gajo Ram Basant
 AND Ram who were dead and challenged the assessment on
 ORISSA. that ground. Learned Counsel for the assessee in
 AGARWALA, this Court referred to section 63 of the Income-tax
 J. Act, which provides that notices under the Act may
 be served on the person named therein either by post
 or as if it were a summons issued by a Court and, in
 the case of a Hindu undivided family, may be
 addressed to any adult member of the family. It is
 contended that the notices were not addressed to an
 adult member of the family but to two dead members
 of the family. The argument is fallacious. The
 family, in its trading capacity, is known as Gajo
 Ram Basant Ram and the notices were addressed to
 the family in the name by which it has chosen to be
 known. It would have been a sufficient compliance
 with the requirements of the section to address them
 to an adult member of the family but they were in fact
 addressed to the family itself, they were accepted as
 notices to the family and the Karta on behalf of the
 family filed a return of the family's income. There
 has been no defect in procedure either in substance or
 in form.

I would, therefore, answer the question submitted
 to us in the affirmative. The Commissioner of Income-
 tax is entitled to his costs : hearing fee Rs. 100.

COURTNEY TERRELL, C. J.—I agree.

J. K.

Order accordingly.