

# SUPREME COURT OF INDIA

Commissioner Of Income-Tax

Vs.

Gordhanbhai Jethabhai Patel

(S.P. Bharucha, R.C. Lahoti and N. S. Hegde JJ.)

26.07.2000

## ORDER

1. The question of law that is said to arise in these appeals reads thus :

"On the facts and in the circumstances of the case, and in law, whether the learned Commissioner of Income-tax (Appeals) was right in holding that the deposit in the firm was made by Gordhanbhai Jethabhai Zaverbhai, Hindu undivided family, and not by the individual partner and so the provisions of Section 40(b) would not apply ?"

2. As we read the question, it is a question of fact, namely, whether the deposit in the firm was made by the Hindu undivided family and not by the individual partner ; and it is, assumed that if it has been made by the Hindu undivided family, the provisions of Section 40(b) will not apply. The Tribunal is the final fact-finding authority and it is not for the court to interfere with the Tribunal's conclusion. We have read the order dated December 14, 1999, referring these appeals to a Bench of three learned judges. We have also noted that Mr. B. Sen has been asked to assist us in the matter. However, we do not think that any decision on the law, as reflected in the order of reference, can be arrived at in these appeals. We are grateful to Mr. Sen for having agreed to assist us.

3. The appeals are dismissed. No order as to costs.