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**% 07.07.2011**

Present: Mr. Sanjeev Sabharwal, Advocates for the appellant.  
Mr. Somnath Shukla, Advocate

**+ ITA No.164/2010**

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This case pertains to the assessment year 2003-04. No doubt that for the previous years, the Assessee had filed returns as a partnership firm along with partnership deed and was assessed as such. For in the year in question, the profit sharing ratio of the two partners was stated to be different than what was recorded in the partnership deed for earlier years. The Assessee had stated that it is a partnership firm of father and son and the Assessee in the return had stated that for this year they agreed to change the profit sharing ratio from 53::47 to 52::48. However, no written statement along with partnership deed was filed along with the said return. On this basis, the question was as to whether the Assessee is to be assessed as a partnership firm or Association of Persons (AOP). As per Section 185 of the Income Tax Act, whenever there is change of the nature and partnership deed is not filed, it is to be treated as AOP and assessed as such. In these circumstances, the view of the Tribunal that the Assessee should have been assessed as AOP is perfectly justified.

The second issue raised in this appeal pertains to charging of interest under Section 234(d) of the Income Tax Act which is covered



by decision of **Director of Income Tax Vs. Jacobs Civil Incorporated**, 235 CTR (Del) 123.

No question of law arose in this appeal. Dismissed.

  
A.K. SIKRI, J.

  
M.L. MEHTA, J.

JULY 07, 2011  
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