(2004) 08 AHC CK 0066

In the Allahabad High Court

Case No : GT Reference No. 89 of 1984 13 August 2004

CGT APPELLANT

Vs

Chand Kishore Jaiswal RESPONDENT

Date of Decision : 13-08-2004

Acts Referred:

Citation : (2005) 145 TAXMAN 543

Hon'ble Judges : R.K. Agrawal, J;K.N. Ojha, J

Bench : Full Bench

Advocate : A.N. Mahajan, for the Revenue, for the Appellant;

Judgement

1. The Income Tax Appellate Tribunal, Allahabad, has referred the following question of law under the Gift Tax Act, 1958, (hereinafter referred to as ''the Act'') for opinion to this court:

"Whether, on the facts and in the circumstances of the case, the Tribunal was legally correct in holding that the reversionary value of the property No. 65/135, Moti Mahal, Kanpur, gifted by the assessee be excluded from the value of the property?"

2. For the assessment year 1969-70 under the Gift Tax Act the only question placed before the Tribunal related to the valuation of the respondent''s 1/3rd share in property No. 65/135, Moti Mahal, Kanpur, gifted by him to Smt. Hema Devi, Smt. Krishna Devi and Smt. Surendra Kumari. The respondent had valued it at Rs. 28,264. The Gift Tax Officer referred the question on its valuation to the Valuation Officer, who valued the same at Rs. 53,312. He had adjudicated the valuation of structure and reversionary value of the land. In appeal the Appellate Assistant Commissioner followed the decision of the Calcutta High Court in the case of Commissioner of Income Tax Vs. Smt. Ashima Sinha, and held that the reversionary value could not be included in the value of the property when it had been valued on rental method as had been done by the Valuation Officer and, therefore, he excluded the reversionary value. The appeal filed by the revenue

has been dismissed by the Tribunal.

We have heard Sri. A.N. Mahaian, learned counsel for the revenue. Nobody has put in appearance for assessee-opposite party.

3. Sri Mahajan very fairly stated that the question referred to us squarely covered by the decision of this court in the case of CWT v. Ram Saran Kairiwal (1987) 168 ITR 485.

4. Respectfully following the decision, we answer the question in affirmative, i.e., in favour of the assessee and against the revenue. However, there shall be no order as to costs.

