(2002) 01 MAD CK 0090

In the Madras High Court

Case No : T. C. No. 5 of 2002 29 January 2002

CGT — APPELLANT

Vs

K. Arunthathi — RESPONDENT

Date of Decision : 29-01-2002

Acts Referred:

Citation : (2002) 176 CTR 609 : (2002) 255 ITR 214 : (2003) 127 TAXMAN 593

Hon'ble Judges : V. S. Sirpurkar, J;K. Raviraja Pandian, J

Bench : Full Bench

Advocate : Mrs. Chitra Venkataraman, for the Revenue, for the Appellant;

Judgement

V. S. Sirpurkar, J.—The department is challenging the order passed by the Income Tax Appellate Tribunal, Chennai, upholding the order passed by the lower authority and dismissing the appeal of the department.

2. The assessee herein is a mother and she had gifted certain gold ornaments, silverware and brassware to her daughter at the time when the marriage of the daughter was performed. It so happened that at that time even the father of the daughter had gifted her certain gold ornaments.

3. However, in the case of the father it was found that since the gift was covered by section 5(1)(vii) of the Gift Tax Act, 1958, the claim for the gift-tax was not maintainable. Now it is the case of the mother, who is admittedly an independent assessee, which would obviously mean that she also may have the income of her own. Be that as it may, if in the case of a father it is accepted that the gifts from him would be covered u/s 5(1)(vii), there is no reason why the same logic should not apply to the mother of the girl also. The section requires that in order for its being attracted the gift should have been made to any relative who is dependent on the assessee for support and maintenance at the time of the marriage of such relative subject to, of course, a particular limit. It is not the case here that this limit has been crossed. A daughter can always be held to be a dependant of both the father as well as the mother particularly when both have their own income.

In that view, we do not find any reason to interfere in the order of the Tribunal. The appeal is dismissed.

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