(2000) 11 MAD CK 0158

In the Madras High Court

Case No : T.C. No. 1112 of 1984 (Reference No. 969 of 1984)

Commissioner of Wealth Tax APPELLANT

Vs

A. Packirisamy RESPONDENT

Date of Decision : 15-11-2000

Acts Referred:

Citation : (2001) 166 CTR 480 : (2001) 248 ITR 239 : (2001) 118 TAXMAN 13

Hon'ble Judges : R. Jayasimha Babu, J;K. Gnanaprakasam, J

Bench : Division Bench

Advocate : Chitra Venkataraman, for the Appellant; None, for the Respondent

Judgement

R. Jayasimha Babu, J.—Two questions have been referred to us, the second of which is returned unanswered, as the facts required for answering the same are not set out in the order of reference, nor are the relevant facts brought out in the order of the Tribunal or the authorities below.

2. The question requiring our answer which concerns the assessment year 1977-78 under the Wealth-tax Act is as to whether the Tribunal was right in deleting the addition of Rs. 1,00,000 made to the net wealth of the assessee for the assessment year 1977-78.

3. The assessee had made a gift of Rs. 1,00,000 to one Kannuswamy by undertaking to bear his liability to that extent. Kannuswamy was indebted to the firm, Aruna Trading Company, in which both the donor-appellant and the donee were partners. That sum of Rs. 1,00,000 was by way of a debit entry transferred from the credit balance in the assessee''s account in that firm to the account of the donee on August 16, 1975. The Revenue has not questioned the correctness of those entries, nor was it the case of the Revenue that there was no genuine credit balance it had no liability to the firm. On the transfer of the sum of Rs. 1,00,000 from the credit balance of the donor, the credit balance in his favour got reduced by that amount and by the transfer of that sum to the account of the donee, the donee''s liability to the firm to that extent got extinguished. Had the

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donor drawn the sum of Rs. 1,00,000 from the firm and paid it over in cash to the donee, and the donee thereafter paid that sum of Rs. 1,00,000 to the firm, the result would have been the same. The fact that instead of drawing the cash and paying the same cash back to the firm, it was done by way of book entries, does not make it any less a genuine transaction.

4. The addition of Rs. 1,00,000 which had been gifted by the assessee-donor, therefore, could not be included in his net wealth for the assessment year 1977-78. The question, therefore, is answered in favour of the assessee and against the Revenue.

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