(1985) 03 RAJ CK 0014

In the Rajasthan High Court

Case No : W.T. Ref. No. 32 of 1976

COMMISSIONER OF WEALTH TAX — APPELLANT

Vs

B. T. AGARWAL. — RESPONDENT

Date of Decision : 12-03-1985

Acts Referred:

Wealth Tax Act, 1957 — Section 4(1A), 5(1)(iv)

Citation : (1985) 49 CTR 52

Judgement

By the Court - The Income Tax Appellate Tribunal has referred the question for the opinion of this court :

"Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to exemption u/s 5(1)(iv) of the Wealth Tax Act, 1957 in respect of the value of 1/4th share in the house property, thrown by him into the common hotch-potch of his HUF, which was included in his net wealth u/s 4(1A) of the Act."

2. The same question was referred by the Tribunal for the opinion of this court in respect of the above assessee for the assessment year 1975-76 in Commissioner of Wealth Tax v. B. T. Agarwal decided on 19th April, 1974 in D.B.W.T. Reference No. 11/78 (since reported in (1984) 42 CTR 15. The opinion was expressed in favour of the assessee and against the revenue and it was held that the assessee was entitled to exemption under s. 5(1)(iv) of the Wealth Tax Act in respect of the value 1/4th share in the house property thrown by him into the common hotch potch of his HUF, which was included in his net wealth under s. 4(1A) of the Act.

3. Admittedly there is no change or variation in the facts in respect of the assessment year 1973-74 and as such the question has to be answered according to the opinion already expressed by this court.

4. The question is, therefore, answered in the affirmative in favour of the assessee respondent and against the revenue. Parties shall bear their own costs.

Let the Appellate Tribunal be informed in accordance with s. 27(6) of the Act.