
(1988) 02 AHC CK 0042
In the Allahabad High Court
Case No : W.T.R. No. 1416 of 1977

Commissioner of Wealth-tax

APPELLANT

Vs

Dinesh Prakash

RESPONDENT

Date of Decision : 04-02-1988

Acts Referred:

Wealth Tax Act, 1957 — Section 5(1)

Citation : (1988) 69 CTR 211 : (1988) 173 ITR 520 : (1988) 37 TAXMAN 132

Hon'ble Judges : Om Prakash, J;D.S. Sinha, J

Bench : Division Bench

Advocate : V. Gulati, for the Respondent

Judgement

Om Prakash, J.—At the instance of the Revenue, the Income Tax Appellate Tribunal, Allahabad Bench, Allahabad, has referred the following two questions relating to the assessment years 1973-74 and 1974-75 for our opinion:

" 1. Whether, on the facts and in the circumstances of the case, the assessee was entitled to exemption u/s 5(1)(xxxii) of the Wealth-tax Act, 1957, in respect of his inasmuch as in Prakash Enterprise and Jagat Narain Chand Prakash (sic) ?

2. If the answer to question No. 1 is in the affirmative, the firm, Prakash Enterprise, could still be treated as an industrial undertaking even though it was engaged in printing on cotton cloth on job basis and not on its own ? "

2. The assessee, an individual, is a partner in two firms, Prakash Enterprise and Jagat Narain Chand Prakash. Both the firms were engaged in the business of dyeing and printing of cotton cloth and making sarees therefrom. For both the assessment years, the assessee claimed exemption u/s 5(1)(xxxii) of the Wealth-tax Act, 1957 ("the Act, 1957", for short). The Wealth-tax Officer, however, refused the exemption and included the value of the assessee's interest in the assets forming part of both the firms on the ground that the firm, Prakash Enterprise, got the printing done on job basis. On appeal, the Appellate Assistant Commissioner found that Prakash Enterprise was an industrial undertaking within

the meaning of the Explanation to Clause (xxxi) of Section 5(1) of the Act, 1957, and he, thus, allowed the exemption claimed by the assessee. He, however, did not discuss the assessee's case for exemption in regard to the other firm, Jagat Narain Chand Prakash.

3. The dispute was further carried in appeal by the Revenue before the Appellate Tribunal. Before the Appellate Tribunal, it was contended by the assessee that the business of both the aforesaid firms was almost the same and that in the case of Chand Prakash, another partner of Jagat Narain Chand Prakash, the Allahabad Bench-B of the Appellate Tribunal, held in W.T.A. No. 385(A) of 1975-76 that that firm was an industrial undertaking within the meaning of the Explanation to Clause (xxxi) of Section 5(1) of the Act, 1957, and, therefore, he was entitled to exemption with regard to the value of his interest in the assets forming part of that industrial undertaking. The contention was that when the activities of both the firms are the same, the same view which had been taken in the case of Chand Prakash, another partner of Jagat Narain Chand Prakash, should have been taken by the Wealth-tax Officer in the case of the assessee also for both the firms. The Appellate Tribunal on the analogy of its decision being given in the case of Chand Prakash, accepted the assessee's claim for exemption. Also, the Appellate Tribunal recorded a finding of fact in regard to Prakash Enterprise as follows :

"Besides this, a list of the expenses has been given, which goes to show that the assessee is engaged in processing of goods. It has incurred expenses on purchase of raw materials, for example, colour, gond and blocks and paid charges for washing, finishing and printing, etc. "

4. The Tribunal, therefore, negatived the view of the Wealth-tax Officer that Prakash Enterprise was getting the printing and dyeing done on job basis. The Tribunal was of the view that for carrying on the business of printing and dyeing, Prakash Enterprise had purchased raw materials and it was engaged in the processing of goods. Having given this finding and having relied on its decision being given in the case of another partner, Chand Prakash, the Tribunal took the view that both the firms were industrial undertakings within the meaning of the Explanation to Clause (xxxi) of Section 5(1).

5. The question for consideration, therefore, is whether the business of printing and dyeing amounts to manufacturing or processing of goods within the meaning of the aforesaid Explanation. Similar question came up for consideration in Commissioner of Wealth Tax Vs. Radhey Mohan Narain, and there a Division Bench of this court held that the business of printing and dyeing involved several processes, namely, bleaching, deying, printing, calendering, etc., with which we entirely agree.

6. Following Commissioner of Wealth Tax Vs. Radhey Mohan Narain, , we hold that the Tribunal was right in taking the view that both the aforesaid firms, in which the assessee was a partner, were industrial undertakings within the

meaning of the Explanation to Clause (xxxi) of Section 5(1) of the Wealth-tax Act, 1957.

7. We, therefore, answer question No. 1 in the affirmative and against the Revenue. Question No. I having been decided in favour of the assessee, there is no need for us to go into question No. 2 which we return unanswered.

8. Let the record of this case be sent to the Appellate Tribunal to pass an order conformably to our order. No order as to costs.