(1991) 03 AHC CK 0005

In the Allahabad High Court

Case No : WT Reference No. 205 of 1979

Commissioner of Wealth-Tax APPELLANT

Vs

Dr. Gaur Had Singhania RESPONDENT

Date of Decision : 11-03-1991

Acts Referred:
Wealth Tax Act, 1957 — Section 16A, 16A(1), 24(6), 27(3), 7

Citation : (1991) 57 TAXMAN 233

Hon'ble Judges : B.P. Jeevan Reddy, C.J;M.P. Kenia, J

Bench : Division Bench

Judgement

1. u/s 27(3) of the Wealth-tax Act, 1957 (''the Act'') the Tribunal has stated the following question for the opinion of this Court:

Whether, on the facts and in the circumstances of the case, the Tribunal was legally correct in setting aside the assessment made and directing the wealth-tax to refer the matter to the Valuation Officer u/s 16A(1) which came into effect from 1-1-1973?

The controversy pertains to the reference to the Valuation Officer for valuation of the unquoted shares under rule ID of the Wealth-tax Rules, 1957, as it then stood. This Court has held in its decision in 1991 UPST Case 9 that rule ID is mandatory and is binding upon the authorities under the Act, including the Valuation Officer.

2. Mr. Katju, the learned standing counsel for the revenue, contends that the Tribunal has evidently followed its earlier decision wherein rule 1D was declared ultra vires as being opposed to provisions of the Act. He further submits that once rule 1D as held, is mandatory the reference to the Valuation Officer is uncalled for.

3. So far the validity of rule 1D is concerned, this Court has already held it to be valid and also held that there is no conflict between rule 1D and section 24(6) or between rule 1D and section 7 of the Act.

4. At the same time, we cannot accept the proposition of Mr. Katju that in case of valuation of unquoted shares, section 16A of the Act is inapplicable. There can be no such proposition of law or rule as such.

5. The reference to the Valuation Officer depends upon the WTO forming the satisfaction as contemplated by either clause (a) or clause (b) of sub-section (1) of section 16A.

6. We also notice that the direction of the Tribunal to the WTO to make a reference to the Valuation Officer was not based upon the ground that rule 1D was not mandatory; it was based on the ground that section 16A is applicable even to the valuation of unquoted shares. We see no reason to interfere with the said direction.

7. For the above reasons, the question referred is answered in the affirmative, i.e., in favour of the assessee and against the revenue. The Valuation Officer shall act in accordance with law and the judgments of this Court. No order as to costs.