(1987) 06 KL CK 0026

In the High Court Of Kerala

Case No : Income Tax R. No''s. 20 to 23 of 1983 and 212 to 214 of 1984

Commissioner of Wealth-tax APPELLANT

Vs

Jose Mathew RESPONDENT

Date of Decision : 24-06-1987

Acts Referred:
Wealth Tax Act, 1957 — Section 5(1)

Citation : (1987) 64 CTR 176 : (1987) 168 ITR 46

Hon'ble Judges : K.S. Paripoornan, J;K. Sreedharan, J

Bench : Division Bench

Advocate : P.K.R. Menon, for the Appellant; V.M. Kurian, for the Respondent

Judgement

Paripoornan, J.—The Income Tax Appellate Tribunal has referred the following questions of law, for the decision of this court, at the instance of the Revenue in ITR Nos. 20 to 23 of 1983 :

"(1) Whether, on the facts and in the circumstances of the case, the agricultural property contributed to the firm by the assessee as his share of capital is '' agricultural land belonging to the assessee '' u/s 5(1)(iva) of the Wealth-tax Act, 1957 ?

(2) Whether, on the facts and in the circumstances of the case, the assessee is entitled to exemption claimed u/s 5(1)(iva) of the Wealth-tax Act, 1957 ?"

2. In ITR Nos. 212 to 214 of 1984, at the instance of the Revenue, the following question has been referred by the Income Tax Appellate Tribunal, for the decision of this court:

"Whether, on the facts and in the circumstances of the case, the assessee is entitled to exemption u/s 5(1)(iva) of the Wealth-tax Act, 1957, in respect of a movable asset, viz., his share of interest in the firm called M/s. U.J. Thariath & Co. ?"

3. The assessment years in ITR Nos. 20 to 23 of 1983 are 1974-.75, 1975-76,

1976-77 and 1977-78. The assessment years in ITR Nos. 212 to 214 of 1984 are 1973-74, 1974-75 and 1975-76. The respondents in all these cases are the assessees tinder the Wealth-tax Act. They are partners of firms. They brought agricultural properties as their capital in the firms. During the course of assessment under the Wealth-tax Act, the respondents/assessees claimed that their share in the value in the agricultural property of the firm (contributed to the firm by them as their share capital) are agricultural lands belonging to them and so they are entitled to exemption provided by Section 5(1)(iva) of the Wealth-tax Act. The assessing authority held that the respondents/assessees are not eligible for exemption u/s 5(1)(iva) of the Wealth-tax Act since the interest of the assessee in the firm is not agricultural property in the hands of the assessee. The plea of the assessee was accepted by the Appellate Assistant Commissioner and also by the Appellate Tribunal. Thereafter, the Revenue moved the Appellate Tribunal for referring the above questions of law for the decision of this court. The Appellate Tribunal referred the above questions, in the above cases, for the decision of this court.

4. The sole question that arises for consideration is whether for the actual share of quantum attributable to the respondents/assessees in the agricultural properties of the firm, the assessees can claim exemption u/s 5(1)(iva) of the Wealth-tax Act. Though the agricultural land belongs to the firm, really it is the partners who are the owners of the said land. After adverting to the decision of the Supreme Court in Addanki Narayanappa and Another Vs. Bhaskara Krishtappa and Others, , and also the decision in Commissioner of Income Tax, Madras Vs. R.M. Chidambaram Pillai and Others, and other relevant decisions, a Bench of the Karnataka High Court in the decision in Commissioner of Wealth-Tax, Karnataka-I Vs. Christine Cardoza, , held that in computing the net wealth of an assessee, who was a partner in a firm which owned agricultural lands, the value of the share of the assessee in the agricultural lands will have to be included in his net wealth and the full deduction u/s 5(1)(iva) should be given in his hands. We perused the said decision. We concur with the same. The Appellate Tribunal has referred to the said decision of the Karnataka High Court as also a few other decisions which have followed the said decision. We are of the view that the decision of the Appellate Tribunal holding that the respondents assessees, who are partners in a firm which owned agricultural lands, are entitled to exemption claimed u/s 5(1)(iva) of the Wealth-tax Act in computing their net wealth, is correct.

5. In this view of the matter, we answer the questions referred to us in ITR Nos. 20 to 23 of 1983 in the affirmative, in favour of the assessee and against the Revenue. We answer the question referred to us in ITR Nos. 212 to 214 of 1984 in the affirmative, in favour of the assessee and against the Revenue.

6. The ITRs are disposed of as above.

7. A copy of this judgment under the seal of this court and the signature of the Registrar shall be forwarded to the Appellate Tribunal as required by law.

