(1995) 09 MP CK 0045

In the Madhya Pradesh High Court

Case No : MCC No. 562 of 1995

Commissioner of Wealth Tax — APPELLANT

Vs

Lokendra Singh — RESPONDENT

Date of Decision : 27-09-1995

Acts Referred:

Income Tax Act, 1961 — Section 256(1), 256(2)
Wealth Tax Act, 1957 — Section 27(3), 5(1)(iii)

Citation : (1996) 85 TAXMAN 270

Hon'ble Judges : U.L. Bhat, C.J;N.K. Jain, J

Bench : Division Bench

Advocate : D.D. Vyas, for the Appellant;

Final Decision : Dismissed

Judgement

1. Heard Shri D.D. Vyas, the learned counsel for the applicant on the question of admission.

This case and three other cases, namely, MCC No. 494 of 1995, MCC Nos. 493 of 1995 and 492 of 1995 have been filed by the revenue u/s 256(2) of the income tax Act, 1961 [sic section 27(3) of the WT Act, 1957] to direct the Tribunal to state the case and make reference. The common assessee is the former Ruler of Ratlam State. Those cases relate to different assessment years. We dispose of the four cases by this order. The common question of law, which is said to arise in these cases is as follows:

Whether, on the facts and in the circumstances of the case including in particular the fact that part of the official residence of the ex-ruler of Ratlam who is the assessee-respondent, stood let out the Tribunal is justified in law in holding that the assessee is entitled to exemption of the value of the said property in its entirety u/s 5(1)(iii) of the Wealth-tax Act, 1957?

2. The exemption is claimed u/s 5(1)(iii) of the Wealth-tax Act. According to this provision, the wealth-tax shall not be payable by the assessee in respect of any

one building in the occupation of the Ruler, being a building, which immediately before the commencement of the Constitution (26th Amendment) Act, 1971 was his official residence by virtue of the declaration by the Central Government under Paragraph 13 of the Merged States (Taxation Concession) Order, 1949 or Para 15 of the Merged States (Taxation Concession) Order, 1950.

3. The dispute in this case relates to a building belonging to the assessee- Ruler, which was his official residence before the commencement of the 22nd Amendment to the Constitution and there was an appropriate declaration in that behalf by the Central Government under the provisions of the two Orders referred to above. It is admitted that the building was a palace and a part of the building had been let out by the assessee. All the statutory authorities of the Tribunal held that though a part of the building had been rented out, exemption u/s 5(1)(iii) is available in regard to the entire building. The Tribunal also declined to make a reference u/s 256(1) of the Act. Hence this application.

4. An identical question has been considered and answered against the revenue by this Court in Commissioner of Income Tax Vs. Bharatchandra Banjdeo, . That was also a case of palace of ex-Ruler, a portion of which had been let out. This Court held that nevertheless the entire building is exempt for the purpose of wealth-tax. It is held that the expression ''any one building'' has been used only to indicate that not more than one building can be exempt. The intention of the legislation was not that if a building is in the occupation of the assessee, value of part of the building, which has been rented out, could be reckoned for the purpose of assessing wealth-tax. We, therefore, hold that no question of law as suggested by the revenue, arises for consideration. The applications are dismissed.

