(1996) 04 MAD CK 0047

In the Madras High Court

Case No : Tax Cases No''s. 1532 and 1535 of 1984 (References No''s. 1121 and 1122 of 1984)

Commissioner of Wealth-tax APPELLANT

Vs

M. Ramamurthy RESPONDENT

Date of Decision : 22-04-1996

Acts Referred:
Wealth Tax Act, 1957 — Section 5(1)
Wealth Tax Rules, 1957 — Rule 2(1)

Citation : (1998) 232 ITR 687

Hon'ble Judges : N.V. Balasubramanian, J;K.A. Thanikkachalam, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; R. Janakiraman, for the Respondent

Judgement

K.A. Thanikkachalam, J.—At the instance of the Department, the Tribunal has referred the following common question of law for the

opinion of this court.

Whether the Tribunal is correct in law in holding that for the purpose of valuation of the share of interest of a partner in a firm u/s 5(1)(xxxii), the

value of land and building of the firm should not be excluded ?

A similar question came up for consideration before this court in Commissioner of Wealth-tax Vs. D.C. Barley Dharmaraja and Others, wherein

this court held that having regard to the object and purpose of clause (xxxii) of section 5(1) if any land or building or interest in any land or building

or any other asset had been excluded under any of the clauses in sub-section (1) of section 5, those items should not again be given exemption

under clause (xxxii) of section 5(1) and that clause (xxxii) will have to be interpreted as not including any land or building or interest in any land or building or asset, which had been referred to in any other clauses of section 5(1). The Tribunal was, therefore, right in holding that the value of the

assessee partner''s interest in the firm to be excluded from their total wealth u/s 5(1)(xxxii) read with rule 2(1) of the Rules should include the value

of the land and building forming part of the assets of the firm. In view of the above decision the order passed by the Tribunal is in order.

Accordingly, we answer this question in the affirmative and against the Department. No costs.