

(1998) 08 MAD CK 0080

In the Madras High Court

Case No : Tax Case No"s. 1214 to 1217 of 1986 (Reference No"s. 762 to 765 of 1986)

Commissioner of Wealth-tax

APPELLANT

Vs

M.C. Satyavathi

RESPONDENT

Date of Decision : 27-08-1998

Acts Referred:

Income Tax Act, 1961 — Section 61
Wealth Tax Act, 1957 — Section 4(1)

Citation : (2000) 243 ITR 303

Hon'ble Judges : R. Jayasimha Babu, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : Chitra Venkataraman, for the Appellant; R. Meenakshisundaram, for the Respondent

Judgement

R. Jayasimha Babu, J.—The Revenue has caused this reference to be made. It concerns the assessment years 1977-78 to 1980-81 and arises under the Wealth-tax Act, 1957, as also under the Income Tax Act, 1961. The questions referred to us are :

"1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal Was right in holding and had valid materials to hold that the funds transferred by the assessee to the revocable trust created by her husband for the benefit of his would be son-in-law cannot be assessed to tax in her hands in terms of Section 4(1)(a)(iv) of the Wealth-tax Act, 1957 ?

2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the interest income attributable to the contributions made by the assessee to the revocable trust created by her husband for the benefit of his would be son-in-law/daughter-in-law cannot be assessed to tax in her hands in terms of Section 61 of the Income Tax Act ?"

Similar questions arose concerning the same assessee and those questions were

considered by this court in the case of Commissioner of Income Tax Vs. M.C. Sathiyavathi, . It was held by this court that the contributions made by the assessee to the trust were in the nature of gifts with no power of revocation, and, therefore, the interest income attributable to the contributions made by the assessee to the revocable trust created by her husband for the benefit of his Would be son-in-law could not be assessed to tax in her hands in terms of Section 61 of the Income Tax Act, 1961.

2. If the income cannot be assessed in her hands, so also the corpus from out of which income had been derived, as the monies gifted by her to the revocable trust were, so far as the assessee is concerned, an absolute gift and not revocable gift. The assessee cannot, therefore, be said to be the owner of the monies, which she had gifted away to the trust. The amounts so gifted, therefore, were not includible in the computation of her wealth. The two questions referred to us, one under the Wealth-tax Act, and the other under the Income Tax Act, are, therefore, answered in favour of the assessee and against the Revenue. No costs.