(1990) 01 DEL CK 0020

In the Delhi High Court

Case No : Wealth-tax Reference No. 78 of 1989

Commissioner of Wealth Tax APPELLANT

Vs

M.K. Gupta RESPONDENT

Date of Decision : 16-01-1990

Acts Referred:

Citation : (1990) 185 ITR 393

Hon'ble Judges : C.L. Choudhary, J;B.N. Kirpal, J

Bench : Division Bench

Advocate : Vikram Gulati, for the Appellant; M. Katju, for the Respondent

Judgement

Kirpal, J.—These are two petitions in respect of the assessment years 1977-78 and 1978-79 wherein the common question of law which is sought to be raised as under :

"Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in holding that the value of the property at No. 34, Najafgarh Road, should be taken at Rs. 51,728 as against Rs. 4,08,212 taken on the basis of the assessment of the other co-owner, Shri R. K. Gupta ?"

2. The Wealth-tax Officer has valued the share of the assessed in respect of 34, Najafgarh Road, at Rs. 4,08,212. In appeal, the Commissioner of Income Tax (Appeals) reduced this to Rs. 51,728 purporting to follow the case of another co-owner, namely, that of Shri Hans Raj Gupta and Shri R. K. Gupta. The Department went up in appeal but without success.

3. The finding of fact as recorded by the Tribunal is that, in the case of other co-owners, their 1/4th share has been valued at Rs. 51,728 and it is the same value which has been adopted by the Tribunal in the case of the assessed in the present case. As to what should be the value of the property is essentially a question of fact, especially when the Tribunal has adopted the value in the case of another co-owner. Learned counsel for the petitioner states that the value which has, in fact, been adopted by the Tribunal is Rs.1,65, 528. We do not find

anything on the record of these two cases that the Tribunal has in any case adopted such a value. There is no basis for making this statement. We find no merit in the petition. The same is dismissed.