(1990) 06 BOM CK 0002

In the Bombay High Court

Case No : WT Reference No. 20 of 1976

Commissioner of Wealth Tax — APPELLANT

Vs

Mrs. Vimla Tulsidas — RESPONDENT

Date of Decision : 07-06-1990

Acts Referred:
Wealth Tax Act, 1957 — Section 27(1), 5(1), 5(1)(viii)

Citation : (1991) 54 TAXMAN 229

Hon'ble Judges : T.D. Sugla, J;Sujata Manohar, J

Bench : Division Bench

Advocate : G.S. Jetly, P.S. Jetly, K.C. Sidhwa and Mrs. Manjula Singh, for the Appellant; Dilip Dwarkadas, for the Respondent

Judgement

T.D. Sugla, J.—The only question of law referred to this Court by the Tribunal u/s 27(1) of the Wealth-tax Act, 1957 (''the Act'') is:

Whether, on the facts and in the circumstances of the case, the value of the gold ornaments not studded with precious stones would be exempt u/s 5(1)(viii) of the Wealth-tax Act, 1957 as amended by the Finance (No. 2) Act, 1971 and not includible in the ''net wealth'' of each of assessee for each of the assessment years under consideration before the Tribunal?

The counsels are agreed that in view of this Court''s decision in the case of Commissioner of Wealth Tax Vs. Smt. Godavaribai R. Podar, , the word ''jewellery'' as used in the said clause (viii) of section 5(1) of the Act cannot, for the period prior to 1-4-1972, be held to include within its embrace ornaments made of gold or silver or platinum or other precious metal or alloy thereof which do not contain a precious or semi-precious stone or stones. Since the assessment years involved herein are prior to the assessment year 1972-73, the question of law is accordingly answered in the affirmative and in favour of the assessees. No order as to costs.

WT Ref. No. 135 of 1976

There is only one question of law in this reference. The question reads thus:

Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the value of the plain gold ornaments included in the list of jewellery cannot be included in the assessee''s net wealth u/s 5(1)(viii) for the relevant assessment year and accordingly directing the WTO to exclude the same from the net wealth of the assessee for 1965-66 to 1967-68 assessment years?

2. The counsels are agreed that in view of this Court''s decision in the case of Smt: Godavaribai R. Podar (supra), the question herein requires to be answered in the affirmative and in favour of the assessee. The question is so answered. No order as to costs.

WT Ref. No. 54 of 1976 decided on 25-6-1990

This is a reference at the instance of the department. The question referred to this Court is only one. It reads thus:

Whether, on the facts and in the circumstances of the case, the value of gold or silver ornaments, not studded with precious stones, would be exempt u/s 5(1)(viii) of the Wealth-tax Act, being articles intended for personal or household use of the assessee?

3. The proceedings relate to assessment years 1964-65 to 1968-69. It is fairly admitted by Shri Jetley, the learned counsel for the department, that the question involved herein is covered by this Court''s judgment in the case of Smt. Godavaribai R. Podar (supra) against the department. Accordingly, the question is answered in the affirmative and in favour of the assessee.

No order as to costs.

WT Ref. No. 150 of 1976 decided on 25-6-1990

The Tribunal has referred only one question in this reference relating to the assessee''s assessment for the assessment years 1968-69 to 1971-72. The question reads thus: Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that gold ornaments not containing precious stones was not includible in the total wealth of the assessee for the assessment years in question since the Explanation 1 to section 5(1)(viii) was inserted by Finance (No. 2) Act, 1971 with effect from 1st April, 1972?

Shri Jetley, the learned counsel for the department, fairly states that in view of this Court''s judgment in the case of Smt. Godavaribai R. Podar (supra), the question is to be answered in the affirmative and in favour of the assessee. The question is so answered.

No order as to costs.