(1989) 07 RAJ CK 0020

In the Rajasthan High Court

Case No : Wealth-tax Reference Application No. 114 of 1988

Commissioner of Wealth-tax — APPELLANT

Vs

Prakash Chand Surana — RESPONDENT

Date of Decision : 06-07-1989

Acts Referred:
Wealth Tax Act, 1957 — Section 27(3), 5(1)
Wealth Tax Rules, 1957 — Rule 2B(2)

Citation : (1990) 182 ITR 470

Hon'ble Judges : S.C. Agrawal, J;Mohini Kapur, J

Bench : Division Bench

Advocate : V.K. Singhal, for the Appellant; T.C. Jain, for the Respondent

Judgement

S.C. Agrawal, J.—This is an application u/s 27(3)EALTH-TAX ACT, 1957~^ of the Wealth-tax Act by the Commissioner of Wealth-tax for directing the Tribunal to refer certain questions of law said to arise out of the Tribunal''s order dated March 25, 1988, to this court for its decision.

2. Shri Singhal, learned counsel for the Revenue, submitted that these questions arise in other cases also and this court has passed various orders on reference applications u/s 27(3)EALTH-TAX ACT, 1957~^ of the Wealth-tax Act, directing the Tribunal to refer these questions to this court for its decision. In support of this submission, Shri Singhal has placed before us copies of orders dated May 24, 1988, in D. B. Wealth-tax Reference No. 19 of 1988 (CWT v. Smt. Jatan Devi) and D. B. Wealth-tax Reference Application No. 86 of 1988, (CWT v. L. K. Kasliwal).

3. Shri T. C. Jain, learned counsel for the assessee, has submitted that in so far as the question with regard to the applicability of Rule 2B(2) of the Wealth-tax Rules, 1957, is concerned, there is a decision of this court in CWT v. Moti Chand Daga [1938] 174 ITR 379, wherein the said question has been decided against the Revenue and in view of the said decision, the said question with regard to the applicability of Rule 2B(2) does not need further consideration by this court.

4. Shri Singhal has further submitted that in the case of COMMISSIONER OF WEALTH-TAX Vs. MOTI CHAND DAGA., this court has observed that the burden which has been placed on the Revenue by Rule 2B(2) of the Wealth-tax Rules, can be discharged by the facts and circumstances and having regard to the material produced by the assessee and, thus, in view of the said decision of this court, it would be open to the Revenue to discharge the burden from the facts and circumstances and having regard to the material produced by the assessee. Shri Singhal has also pointed out that the decision in COMMISSIONER OF WEALTH-TAX Vs. MOTI CHAND DAGA., was given on May 21, 1988, and after the said decision, the same Bench of this court has passed orders on May 24, 1988, in Reference Applications Nos. 19 of 1988 and 86 of 1988 referred to above. In the circumstances, we are satisfied that the questions raised by the Revenue in this application arise out of the Tribunal''s order dated March 25, 1988, and the same should be directed to be referred to this court for its decision.

5. The application is, therefore, allowed and the Tribunal is directed, u/s 27(3)EALTH-TAX ACT, 1957~^ of the Wealth-tax Act, to refer the following questions to this court for its decision :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that Rule 2B(2) of the Wealth-tax Rules was not applicable in the assessee''s case and consequently in deleting the addition made by the Wealth-tax Officer ? and

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the firm, Messrs. Bhuramal Rajmal Surana (Mfg.), Jaipur, is an industrial undertaking within the meaning of Section 5 and consequently in holding that the value of the assessee''s interest in that firm is exempt u/s 5 of the Wealth-tax Act, 1957?"

6. No order as to costs.