(1989) 10 MP CK 0021

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 54 of 1989

Commissioner of Wealth-tax APPELLANT

Vs

Princess Usha Trust RESPONDENT

Date of Decision : 03-10-1989

Acts Referred:
Wealth Tax Act, 1957 — Section 27(3)

Citation : (1990) 183 ITR 152

Hon'ble Judges : V.D. Gyani, J;A.G. Qureshi, J

Bench : Division Bench

Advocate : Samvatsar, for the Appellant;

Judgement

V.D. Gyani, J.—This is an application by the Department u/s 27(3) of the Wealth-tax Act, 1957 (for short, "the Act"), for calling for a statement of case from the Income Tax Appellate Tribunal, Indore.

2. Facts giving rise to this application seeking a reference, shortly stated, are as follows : The assessment year involved in this case is 1981-82. The Wealth-tax Officer assessed the trust on wealth of Rs. 2,49,59,146 for the assessment year 1981-82 and at Rs. 2,98,39,575 for the assessment year 1982-83. The assessee-trust, which was a private trust, was created on April 10, 1950. The assessee filed returns declaring its net wealth on the ground that, in the year 1973, the beneficiaries under the trust had transferred their beneficial interest in favour of another trust. The Wealth-tax Officer assessed the trust on its net wealth for the assessment years 1981-82 and 1982-83. The Commissioner of Income Tax (Appeals), following the judgment of this court in Princess Usha Trust Vs. Commissioner of Income Tax, held that, on the valuation date, the trust ceased to exist and accordingly cancelled the assessments. Aggrieved by this order, the Department filed an appeal before the Income Tax Appellate Tribunal. The Tribunal rejected the Department''s contention that the matter had been carried to the Supreme Court and was pending decision. It was submitted that a SLP was pending.

3. A reference application was made by the Department seeking reference to this court of the following question :

"Whether, on the facts and in the circumstances of the case, the Tribunal is justified in law in confirming the Commissioner of Wealth-tax (Appeals)''s order on the basis of the Madhya Pradesh High Court''s order in Miscellaneous Civil Case No. 75 of 1982 dated March 19, 1983 Princess Usha Trust Vs. Commissioner of Income Tax,), ignoring the fact that the Revenue has gone in appeal to the Supreme Court and SLP is pending ?"

4. This application was rejected. Hence, the present application before this court.

5. The Tribunal held that no referable question of law arises, since the question has already been answered by this court in Miscellaneous Civil Case No. 75 of 1982, by its order dated March 19, 1983 Princess Usha Trust Vs. Commissioner of Income Tax,).

6. We do not find that, on the mere fact that a SLP has been preferred, the order passed by this court stands modified or annulled. There is no interim order passed by the Supreme Court, nor was any such order brought to our notice staying the operation of this order of this court in Miscellaneous Civil Case No. 75 of Princess Usha Trust Vs. Commissioner of Income Tax, . The question referred is covered by the decision of this court in Miscellaneous Civil Case No. 75 of Princess Usha Trust Vs. Commissioner of Income Tax, and no referable question of law arises in this case.

7. This application is, therefore, rejected.