**(1998) 07 MAD CK 0092**

**In the Madras High Court**

**Case No :** T.C.P. No''s. 112 to 134 of 1998

Commissioner of Wealth-tax APPELLANT

Vs

R. Ariff and Others RESPONDENT

**Date of Decision :** 29-07-1998

**Acts Referred:**

Wealth Tax Act, 1957 — Section 27, 5(1)

**Citation :** (2000) 246 ITR 797

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

**Bench :** Division Bench

**Advocate :** C.V. Rajan, for the Appellant; P.P.S. Janarthana Raja, for the Respondent

# Judgement

R. Jayasimha Babu, J.—The Revenue''s contention is that exemption u/s 5(1)(iv) of the Wealth-tax Act, 1957, cannot be granted in respect of the share of the partner in a building owned by the firm. The building in this case being a hotel and the assessment years in this case being 1983-84 to 1985-86. The subsidiary contention is that the building in respect of which the exemption can be granted should be a residential building and not a commercial building. The Tribunal has held otherwise.

2. The Tribunal has relied on the decisions of the Madhya Pradesh High Court in Jagdish Chandra Grover Vs. Commissioner of Wealth-tax, and Ravi Mohan Vs. Commissioner of Wealth-tax, and has held that though the building is a commercial building, the building being a hotel, the exemption sought for can be granted. This court in the case of Commissioner of Wealth Tax Vs. N. Thavamani, after referring" to the earlier decisions of this court and also the decision of the Supreme Court in The Tata Engineering and Locomotive Company Ltd. Vs. Gram Panchayat, Pimpri Waghere, has held that the expression "house" is not limited to a structure designed for human habitation and that a workshop building can also be regarded as a house for the purpose of Section 5(1)(iv) of the Wealth-tax Act, 1957.

 

3. In so far as the claim of the partner in respect of a building owned by the firm is concerned, this court in the decision reported as R. Venkatavaradha Reddiar Vs. Commissioner of Income Tax, has held that the partner is entitled to the exemption, even though the property may be owned by the firm.

4. We therefore, hold that the decision of the Tribunal is in accordance with the law declared by this court. We do not find any justification in calling for a reference in respect of the matters covered by the decisions of this court, tax case petitions are therefore, dismissed. No costs.