(1990) 03 DEL CK 0069

In the Delhi High Court

Case No : Wealth-tax Case No. 9 of 1989

Commissioner of Wealth Tax		APPELLANT
	Vs	
R.S. Chaudhry		RESPONDENT

Date of Decision : 19-03-1990

Acts Referred:

Citation : (1990) 184 ITR 611

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

Bench : Division Bench

Advocate : Deokinandan, Adv K.M.L. Majele, for the Appellant;

Judgement

Kirpal, J.—By this application, the petitioner seeks reference of two types of question, the first relates to the valuation of the assessed interest in the property No. 7, Anand Lok, New Delhi, and the other type of question sought to be raised pertains to the issue whether the superstructure on plot No. 7, Anand Lok, New Delhi, could be regarded as owned by the association of persons or not and what was share of the assessed.

2. In the respect of the assessment year 1978-80, the Income Tax Appellate Tribunal, under the Income Tax Act, has already referred u/s 256(1) of the Income Tax Act two question of law, the first of which pertaining to the issue with regard to the ownership of the house being that of the association of persons or not.

3. In our opinion, the question with regard to the valuation of the house is a pure question of fact but the other questions relate to the existence of an association of persons and in view of the aforesaid decision of the Tribunal in making reference u/s 256(1), we direct the Tribunal to state the case and refer the following question of law to this court :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in upholding the order of the Appellate Assistant Commissioner that the superstructure on plot No. 7, Anand Lok, New Delhi, was owned by the association of persons comprising of the assessed, his wife and two minor children represented by the assessed himself and that only one-fourth share thereof belonged to the assessed ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in holding that an association of persons was legally formed ?"

4. The petition is disposed of, there will be no order as to costs.

