(1989) 03 DEL CK 0005

In the Delhi High Court

Case No : Wealth-tax Cases No''s. 43 to 48 of 1983

Commissioner of Wealth Tax — APPELLANT

Vs

Sheila Kaushish — RESPONDENT

Date of Decision : 12-03-1989

Acts Referred:

Citation : (1989) 180 ITR 362

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

Bench : Division Bench

Judgement

B.N. Kirpal

1. The question of law which is sought to be referred at the instance of the petitioner relates to the valuation of property at No. 15, Original Road, New Delhi.

2. The said property has been let out and the Wealth-tax Officer computed its value at Rs. 4,17,000 accepting the valuation of the respondent. The Commissioner of Wealth-tax revised the said order and came to the conclusion that the value of land could have been taken at Rs. 250 per sq. yard and, while giving certain directions, he set aside the order of the Wealth-tax Officer and directed him to recompute the value. An appeal was filed by the respondent before the Tribunal. The Tribunal came to the conclusion that there was no infirmity in the order passed by the Wealth-tax officer and the order was not prejudicial to the Revenue. It was also observed that apart from the fact that the property had been correctly valued by the respondent even otherwise, the valuation could have been on the basis of the standard rent.

3. The respondent then applied to the Tribunal for seeking to refer the following three questions of law to this court :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in coming to the conclusion that the order of the Wealth-Tax Officer was not prejudicial to the interests of the Revenue ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in not accepting the findings of the Commissioner of Income Tax that the Wealth-tax Officer should have estimated the valuation of the property by adopting the rental method which was the proper method in the present case, in view of the actual rent realised and not any national or standard rent ?

3. Whether, on the facts and n the circumstances of the case, the Tribunal was correct in law in holding that it was only the standard rent which could be adopted for the purpose of the valuation of the property on the basis of rental method ?"

4. The Tribunal, vide its order dated November 10, 1982, dismissed the said application, following its decision for the earlier years as well. Thereafter, the present petition has been filed for a mandamus directing the Tribunal to refer the aforesaid three questions of law to this court.

5. It is contended by learned counsel for the petitioner that the aforesaid questions of law did arise from the order and that it could not be said that the same were questions of fact.

6. There is merit in the contention of the petitioner''s counsel that the aforesaid questions can be regarded as questions of law but the answer to the said questions is self-evident in view of the decision of the Supreme Court in the respondent''s own case, Mrs. Shiela Kaushish Vs. Commissioner of Income Tax, Delhi, . That was an appeal filed by the respondent in the present case and the contention of the respondent was that the value should be determined by applying the basis of standard rent. The Supreme Court accepted this contention. In view of the aforesaid decision of the Supreme Court, it is clear that the answer to the proposed questions is self-evident and Therefore, this petition cannot succeed.

7. In view of the aforesaid, the petition is dismissed. There will be no order as to costs.

