(1991) 09 AHC CK 0053

In the Allahabad High Court

Case No : Wealth-tax Reference No. 29 of 1976

Commissioner of Wealth-tax APPELLANT

Vs

Sri Chintamani RESPONDENT

Date of Decision : 10-09-1991

Acts Referred:
Wealth Tax Act, 1957 — Section 5(1)

Citation : (1993) 199 ITR 92

Hon'ble Judges : R.R. Misra, J;A.P. Misra, J

Bench : Division Bench

Final Decision : Allowed

Judgement

R.R. Misra, J.—This reference under the Wealth-tax Act, 1957, relates to the assessment year 1973-74. The sole question referred to this court is as follows :

" Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that Messrs. Chintamani Bros., a firm engaged in printing and sale of cotton sarees is an industrial undertaking within the meaning of Section 5(1)(xxxii) read with the Explanation to Clause (xxxii) of Section 5(1) of the Act and that the assessee''s interest therein was entitled to exemption from wealth-tax under the said Wealth-tax Act ?"

The necessary facts in regard to the above are as under. The assessee is a Hindu undivided family and is a partner of Messrs. Kastoor Chand Munna Lal and Messrs. Chintamani Bros. both of which are engaged in printing and sale of cotton sarees. In the assessment to wealth-tax for the assessment year 1973-74, the assessee claimed that his interest in the said two firms as partner is exempt from wealth tax u/s 5(1)(xxxii) of the Wealth-tax Act (hereinafter referred to as "the Act"). On examining the same, the Wealth-tax Officer accepted the claim of the assessee. The Commissioner of Wealth-tax, however, subsequently took action u/s 25(2) of the Act on the ground that the Wealth tax Officer was not justified in accepting the said claim of the assessee and that the aforesaid relief granted to the assessee was erroneous and prejudicial to the interests of the Revenue. He issued a show-cause notice to the assessee which ultimately resulted in an order passed by the Commissioner of Wealth-tax holding that the business of printing and sale of cotton sarees carried on by the aforesaid two firms cannot be held to be a "manufacturing or processing of goods" within the meaning of Section 5(1)(xxxii) of the Act. Aggrieved, the assessee filed an appeal before the Wealth-tax Appeallate Tribunal which has, by its order dated February 23, 1977, allowed the appeal of the assessee and has accepted the claim of the assessee. The Department has now come in reference before us and has raised the question stated above for our opinion.

2. We have heard learned standing counsel appearing for the Commissioner of Wealth-tax. We, however, find that the question raised before us is not res Integra. In the case of Commissioner of Wealth Tax Vs. Radhey Mohan Narain, , it has been held that the firm engaged in purchasing plain white cloth and getting it converted into bed spreads, etc., is one which is involved in the "processing of goods" within the meaning of Section 5(1)(xxxii) of the Act and that it is an industrial undertaking, hence entitled to exemption under the Wealth tax Act. This decision has later on been followed by another Division Bench of this court in the case of Commissioner of Wealth-tax Vs. Dinesh Prakash, . It has been held in this case that the business of printing and dyeing involves several processes, namely, bleaching, dyeing, printing, calendering, etc. Therefore, the interest of the assessee in the aforesaid two firms which were involved in the said two businesses which were in the nature of industrial undertakings is exempt u/s 5(1)(xxxii) of the Act.

3. In view of the aforesaid decisions of this court, we are of the opinion that the Tribunal was right in law in holding that the interest of the assessee as partner of the aforesaid two firms was exempt u/s 5(1)(xxxii) of the Act and that the business activities of the said two firms were those of an industrial undertaking. Since none has appeared on behalf of the assessee, there shall be no order as to costs.