
(1979) 09 RAJ CK 0018

In the Rajasthan High Court

Case No : Civil Wealth-tax Reference No. 23 of 1970

Commissioner of Wealth-tax

APPELLANT

Vs

Thakur Laxman Singh

RESPONDENT

Date of Decision : 26-09-1979

Acts Referred:

Citation : (1979) 13 CTR 346 : (1984) 150 ITR 421

Hon'ble Judges : C.M. Lodha, C.J.;Kanta Bhatnagar, J

Bench : Division Bench

Advocate : L.R. Mehta, for the Appellant; H.P. Gupta, for the Respondent

Judgement

Lodha C.J.

1. This is a reference u/s 27(3) of the W.T. Act, 1957 by the Income Tax Appellate Tribunal, Delhi Bench "B", and the question referred to us reads as under :

"Whether, on the facts and in the circumstances of the case, the "Tribunal was right in holding that all the wealth of the assessee including the compensation received by him under the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952, and assessed in the year 1957-58 belonged to him in the capacity of the karta of a Hindu undivided family or it belonged to him as an individual ?

2. The assessee, Thakur Laxman Singh, was a jagirdar in the former State of Jodhpur. His jagir was resumed under the Rajasthan Land, Reforms and Resumption of Jagirs Act, 1952. The succession to the jagir was governed by the law of primogeniture. While making assessment of his wealth for the assessment year 1957-58, the WTO estimated the amount of compensation payable to the assessee on account of the resumption of his jagir at Rs. 10,00,000, and included this amount in the net wealth of the assessee. The immovable property of the assessee, situated in Jodhpur, which formed part of the jagir, was also included in the net wealth. The WTO assessed the above-mentioned wealth of the assessee in his status as an individual, though the assessee's claim was that

it should have been assessed in his status as karta of the HUF.

3. Aggrieved by the order of the WTO, the assessee filed an appeal before the AAC who, by his order dated September 26, 1962, upheld the assessee's claim. Thereupon, the WTO went in appeal before the Tribunal, which by its order dated July 3, 1963, allowed the appeal in part and remanded the case to the AAC with a direction to decide the matter afresh after recording evidence which may be produced by the assessee. The AAC gave a fresh decision on April 18, 1964, wherein he held that the wealth in question was held by the assessee in his capacity as karta of the HUF.

4. Dissatisfied with the order of the AAC, the Revenue again filed an appeal before the Tribunal, which by its order dated March 23, 1967, upheld the order of the AAC. The Commissioner of Wealth-tax, then, filed an application before the Tribunal for making a reference to this court and this is how the matter has come before us.

5. Learned counsel for the assessee has submitted that the case is completely covered by the two Bench decisions of this court in *Thakur Gopal Singh Vs. Commissioner of Wealth-tax*, and *Commissioner of Wealth-tax Vs. Thakur Bhairon Singh*,

6. We have gone through these cases and find that *Thakur Bhairon Singh's* case is on all fours with the present case and squarely covers the points arising in the case on hand. Learned counsel for the Department could not point out any distinguishing features in the present case which may take it out of the principle laid down in the two decisions of this court referred to above. We, therefore, do not consider it necessary to repeat all the reasons which have been set out in the aforesaid two decisions in support of the view that the wealth in question must be taken to be the wealth of the HUF and the assessee should be assessed with respect to it in his status as karta of the HUF. We may also mention that *Bhairon Singh's* case was sought to be taken to the Supreme Court by an application for grant of leave which was refused. The decision by this court in *Bhairon Singh's* case is reported to have become final.

7. Accordingly, we hold that the Tribunal was right in holding that all the wealth of the assessee including the compensation received by him under the Rajasthan Land Reforms, and Resumption of Jagirs Act, 1952, and assessed in the year 1957-58 belonged to him in his capacity of the karta of the HUF.

8. We answer the question accordingly. Let the answer be returned to the Tribunal. There will be no order as to costs.