(1989) 10 RAJ CK 0015

In the Rajasthan High Court

Case No : Wealth-tax Reference Application No. 136 of 1988

Commissioner of Wealth-tax APPELLANT

Vs

Ugar Singh and Others RESPONDENT

Date of Decision : 17-10-1989

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

Citation : (1990) 184 ITR 255

Hon'ble Judges : S.C. Agrawal, J;I.S. Israni, J

Bench : Division Bench

Advocate : V.K. Singhal, S.L. Sharma and R.B. Mathur, for the Appellant; N.M. Ranka, for the Respondent

Judgement

1. This application has been moved u/s 27 of the Wealth-tax Act, 1957, whereby the Revenue has prayed for directing the Income Tax Appellate Tribunal to refer the two questions mentioned in para 6 of the application for consideration of this court. Mr. Singhal, learned counsel for the Revenue, has submitted that the questions which have been raised are already under consideration in other matters in which this court has directed the Tribunal to make a reference and, therefore, in the present case also, reference should be called for in respect of these questions.

2. Mr. Ranka, learned counsel for the assessee has, on the other hand, pointed out that, as regards the first question, the total amount which was added by the Wealth-tax Officer under Rule 2B(2) of the Wealth-tax Rules was Rs. 1,11,813 and the tax liability in respect of the above is only to the extent of Rs. 1,100. The submission of Mr. Ranka is that the amount of tax is too insignificant to require consideration by this court. Having considered the aforesaid submissions of learned counsel, we are of the view that taking into consideration that the amount of tax liability, which would be affected by a decision of question No. 1 is to the tune of Rs. 1,100 only, we do not consider the said question is such as to require consideration by this court in the present case specially when the said

question is already under consideration before this court in other cases and the principles laid down by this court in that regard would govern other similar cases including the assessment of the assessee.

3. As regards question No. 2, Shri Singhal has invited our attention to the decision of this court in Commissioner of Wealth Tax Vs. Smt. Kanchan Devi Golecha, wherein this court has directed the Tribunal to refer a similar question for consideration to this court. Shri Singhul has also placed reliance on the decision of this court in CWT v. Vimal Chand Daga (HUF) [1988] 172 ITR 264, wherein this court has considered the provisions of Section 5 of the Wealth-tax Act and has remanded the case for reconsideration to the Tribunal in the light of the principles laid down in the said decision. The submission of Shri Singhal is that, in the present case, the Tribunal has not considered the matter in the light of the principles laid down by this court in the aforesaid decision. Taking into consideration the facts and circumstances of the case, we are of the opinion that question No. 2 does require consideration by this court. The Income Tax Appellate Tribunal is, therefore, directed to draw up the statement of the case and refer the following question for consideration of this court :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the firm, Gumamnal Umraomal, is an industrial undertaking within the meaning of Section 5 and, consequently, in holding that the value of the assessee''s interest in that firm is exempt u/s 5 of the Wealth-tax Act, 1957 ?"

4. No order as to costs.

