(1997) 11 MAD CK 0016

In the Madras High Court

Case No : Tax Case No. 68 of 1990 Reference No. 28 of 1990

Commissioner of Wealth-Tax APPELLANT

Vs

V.M.SP.L.AR. Arunachalam Chettiar RESPONDENT

Date of Decision : 24-11-1997

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

Citation : (1999) 1 LW(Cri) 189 : (2002) 124 TAXMAN 677

Hon'ble Judges : P. Thangavel, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; R. Janakiraman, for the Respondent

Judgement

N.V. Balasubramanian, J.—The assessee is a partner of a firm. The firm owned certain assets eligible for exemption u/s 5(1A) of the

Wealth-tax Act, 1957 (''the Act'') . In the wealth-tax assessment of the assessee for the year 1976-77, the WTO valued the agricultural lands

owned by the firm in which the assessee is a partner, but did not grant exemption u/s 5(1)(iva) , on the ground that the assessee was not the owner

of the agricultural lands and that the assessee was not having any specific interest in the assets of the partnership. On appeal, the AAC allowed the

exemption u/s 5(1) (iva) as claimed by the assessee. The Tribunal, on further appeal by the department, dismissed the appeal holding that the

assessee is entitled to exemption u/s 5(1)(iva) . The above order of the Tribunal is the subject-matter of reference and the following question of law

has been referred to us for our consideration u/s 27(1) of the Act :

Whether the deduction u/s 5(1A) of the Wealth-tax Act, 1957, in respect of the assets belonging to a firm should be allowed in the hands of the firm only in computing the deemed net wealth of the firm in terms of rule 2 of the Wealth-tax Rules, 1957 and not in the hands of each individual

partner

We are of the opinion that the reference to section 5(1A) in the question is a typographical mistake as the claim of the assessee in the wealth-tax

proceedings was that he is entitled to exemption u/s 5(1)(iva) . Since it is an apparent mistake, the reference to section 5(1A) in the question of law

referred to us should be construed as section 5(1)(iva) . Insofar as the point raised in the question of law is concerned, it is concluded by the

decision of this Court in the case of R. Venkatavaradha Reddiar Vs. Commissioner of Income Tax, wherein this Court has held that the partners

alone should have the benefit of the exemption u/s 5(1)(iv) when their individual assessments are taken up to the extent of their respective shares in

the net wealth of the partnership firm. The decision of this Court, though rendered with reference to section 5(1)(iv) would equally apply to the

case falling u/s 5(1)(iva) . Following the earlier decision of this Court in R. Venkatavaradha Reddiar''s case (supra) , we are of the view that there

is no infirmity in the order of the Tribunal in holding that the assessee is entitled to exemption in respect of the agricultural lands held by the firm to

the extent of his share in the net wealth of the partnership firm. Accordingly, we answer the question of law as substituted in the negative and

against the department. However, in the circumstances of the case, there will be no order as to costs.

