(2007) 05 RAJ CK 0115

In the Rajasthan High Court

Case No : Wealth Tax Reference No. 38 of 1995

Commissioner of Wealth Tax, Jaipur — APPELLANT

Vs

Mathuradass Kotawala — RESPONDENT

Date of Decision : 09-05-2007

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

Citation : (2007) 05 RAJ CK 0115

Hon'ble Judges : R.S. Chauhan, J;R.M. Lodha, J

Bench : Division Bench

Advocate : Anuroop Singhi, for the Appellant;

Judgement

R.M. Lodha, J.—The following question has been referred by the Income Tax Appellate Tribunal, Jaipur Bench, Jaipur for answer by the High Court :

"Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the firm of M/s. Bhonrilal gopaldass in which the assessee is partner was an industrial undertaking and the assessee was entitled for exemption u/s 5 (1)(xxxii) of the W.T. Act 1957 in respect of its interest in the assets of the said firm?"

The counsel for the revenue submits and in our view fairly that the controversy raised by the aforesaid issue stands answered by our judgment in Commissioner of Wealth Tax Vs. Shyam Mohan, .

2. In the matter of Shyam Mohan case (supra), we considered the provisions of section 5(1)(xxxii) of the Wealth Tax Act, 1957 and Rule 2, 2B(2) of the Wealth Tax Rules. We also considered the judgment of the Division Bench in the case of CWT v. Moti Chand Daga [1988] 174 ITR 379 1 (Raj.) and other decisions of this court, namely; (i) CWT v. Manmohan Lal [1990] 186 ITR 603 (Raj.); (ii) Commissioner of Wealth-tax Vs. Umraomal Dhaddha, ; (iii) CWT v. Gopi Chand Rawat [1994] 206 ITR 415 (Raj.); (iv) CWT v. Smt. Gulab Devi [2000] 245 ITR 80 (Raj.); (v) CWT v. Smt. S.K. Bader [1987] 167 ITR 890 2 (Raj.) and (vi) CWT

v. Smt. Kanchan Bai Bader [1994] 206 ITR 285 3 (Raj.).

3. We also referred to the decisions of this Court in the cases of (i) CWT v. Vimal Chand Daga (HUF) [1988] 172 ITR 264 4 (Raj.) and (ii) CIT v. Dhandia Gems Corpn. [1994] 208 ITR 923 (Raj.). In paragraphs 20 and 21 of our judgment, we observed thus :

"In Vimal Chand Daga (HUF)''s (supra), the Division Bench thought it fit to restore the question whether the firm in which the assessee was a partner in claiming exemption u/s 5(1) (xxxii) of the Act in respect of his interest in the assets of the partnership firm because in their view the question was of considerable importance as it affected the entire Gem industry of the Jaipur area. It is in this background, the entire question concerning the gem industry has been considered threadbare by the Tribunal in Smt. Rajkumari Jain''s case (supra) other connected manners and these firms have been held ''industrial undertaking'' within the meaning of section 5(1)(xxxii) of the Act. The firm Rawat Bombay falls in the same category of firms being part of the same gem industry and the activity of processing of the gems beginning with the raw material (rough) and ending up in marketing form is no different.

We thus, hold that the firm Rawats Bombay is an industrial undertaking within the meaning of Explanation to section 5(1)(xxxi) of the Act and, consequently, the Tribunal did not err in holding that the value of the assessee''s interest in the firm is exempt u/s 5(1) (xxxii) of the Wealth Tax Act, 1957. (P 411)

4. For the self-same reasons, we answer the question in affirmative. Under according.

