(2006) 10 AHC CK 0036

In the Allahabad High Court

Case No : WT Reference No. 37 of 1996

Commissioner of Wealth Tax, Meerut APPELLANT

Vs

Smt. Sewati Devi RESPONDENT

Date of Decision : 09-10-2006

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

Citation : (2006) 10 AHC CK 0036

Hon'ble Judges : Vikram Nath, J;R.K. Agrawal, J

Bench : Division Bench

Advocate : A.N. Mahajan, for the Appellant; Krishna Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

1. The income tax Appellate Tribunal, Delhi Bench has referred the following question of law u/s 27(1) of the Wealth-tax Act, 1957 (hereinafter referred to as "the Act") for opinion of this Court:- Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that value of share is alleged AOPs, M/s. Mahendra Kumar Sewati Devi and M/s. Shiam Lal Sewati Devi could not be added in the hands of the assessee?

The reference relates to the assessment year 1972-73 and 1976-77.

2. Briefly stated the facts giving rise to the present reference are as follows:-

The assessee, Smt. Sewati Devi, was an individual and filed her return of wealth for assessment years 1972-73 to 1976-77. The assessing officer included in her wealth the value of her share in AOPs, namely, Shiam Lal Sewati Devi and Mahendra Kumar Sewati Devi on estimate basis. The amount of additions was Rs. 20,000, Rs. 20,000, Rs. 25,000, Rs. 30,000 and Rs. 35,000 for assessment years 1972-73 to 1976-77 respectively. The CWT(Appeals) has deleted the additions following the finding of his predecessor in the income tax case of the assessee. The Revenue has brought the issue in appeal before the Tribunal. The Tribunal found that In the income tax appeal this issue was decided in favour of the assessee by the Tribunal. Accordingly, the Departmental appeals were dismissed.

3. We have heard Sri A.N. Mahajan, learned Standing Counsel for the Revenue and Sri Krishna Agrawal, learned counsel appearing for the respondent.

4. We find that this Court in ITR No. 122 of 1993 decided on 12-5-2005 and ITR No. 242 of 1991 decided on 1-2-2005 this Court accepted the claim of partial partition. In this view of the matter the question has to be answered in favour of the assessee and against the Revenue.