

**(1992) 10 BOM CK 0065**

**In the Bombay High Court**

**Case No : Estate Duty Reference No. 13 of 1975**

Controller of Estate Duty

APPELLANT

Vs

Gangabishan Champalal Bajaj and Another

RESPONDENT

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**Date of Decision :** 19-10-1992

**Acts Referred:**

Estate Duty Act, 1953 — Section 73, 73A

**Citation :** (1995) 214 ITR 348

**Hon'ble Judges :** V.A. Mohta, J; B.P. Saraf, J

**Bench :** Division Bench

**Advocate :** C.J. Thakar, P.M. Chandurkar, for the Appellant;

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## **Judgement**

V.A. Mohta, J.—At the instance of the Controller of Estate Duty, Nagpur, the following questions have been referred u/s 64 of the Estate Duty Act, 1953 :

"(i) Whether the Tribunal was justified in taking the view that the order of assessment passed by the Assistant Controller of Estate Duty in respect of the estate of the deceased, Mathuradas Gulabchand Bajaj, was barred by limitation on April 29, 1972, u/s 73A of the Act ?

(ii) Whether, in the facts and circumstances of the case, the Tribunal was justified in upholding the order of the Appellate Controller cancelling the assessment made by the Assistant Controller of Estate Duty ?"

2. The late Shri Mathuradas Bajaj died on July 23, 1961. His sons voluntarily filed an estate duty account on October 25, 1971, i.e., after more than ten years of the death. Assessment was completed by the Assistant Controller of Estate Duty on April 29, 1973. The Appellate Controller cancelled the assessment as time-barred u/s 73A of the Estate Duty Act. The said order was maintained by the Tribunal.

3. The provisions of section 73A are quite clear. Initiation can be either by a notice or by filing a return. Neither of the two has taken place within five years of

the death of the deceased.

4. Under the circumstances, both the questions are answered in the affirmative and in favour of the accountable person. No order as to costs.