(1990) 08 OHC CK 0029

In the Orissa High Court

Case No : S.J.C. No. 59 of 1984

Controller of Estate Duty APPELLANT

Vs

Illyas Assam Arbi RESPONDENT

Date of Decision : 10-08-1990

Acts Referred:
Estate Duty Act, 1953 — Section 36

Citation : (1991) 188 ITR 452

Hon'ble Judges : S.C. Mohapatra, J;J.M. Mahapatra, J

Bench : Division Bench

Advocate : S. Roy, General, for the Appellant; N. Paikray, for the Respondent

Judgement

S.C. Mohapatra, J.—This is a reference u/s 64(1) of the Estate Duty Act, 1953. The statement of case has been made by the Income Tax Appellate Tribunal on the following question of law :

"Whether, on the facts and in the circumstances of the case, while valuing the deceased''s interest in a partnership firm of which he was a partner u/s 36 of the Estate Duty Act, some of the assets of the said firm could be revalued disregarding the value of these assets as appearing in the balance-sheet of the firm ?"

2. The deceased, Assam Sakoor Arbi, died on April 8, 1978. His estate is the subject-matter of the assessment. The deceased was partner of a firm having a rice mill. One-fourth interest of the deceased was valued at Rs. 1,04,939. The balance-sheet of the firm indicated the total value of the rice mill to be Rs. 1,67,942. The accountable person claimed in appeal that 1/4th share of the deceased comes to Rs. 44,486 which is the estate of the deceased. The entire assets of the firm were originally valued at Rs. 3,90,000 but the valuer determined the same at Rs. 5,86,000. For the purpose of assessment, it was taken to be Rs. 4,19,758. The Controller held that valuation of part of the entire assets cannot be separated from the valuation given in the balance-sheet and,

accordingly, the valuation as given in the balance-sheet is to be accepted. He relied upon a decision reported in Surajmall Gouti Vs. Controller of Estate Duty, , a decision of the Calcutta High Court. In the departmental appeal before the Tribunal, the view taken by the Controller was accepted relying upon the decision reported in Smt. Gunvantibai Vs. Controller of Estate Duty, of the Madhya Pradesh High Court (Indore Bench).

3. After hearing Mr. S.C. Roy for the Department and Mr. N. Paikray for the assessee, we arc satisfied that, on the facts and in the circumstances of the case, while valuing the deceased''s interest in a partnership firm of which he was a partner u/s 36 of the Estate Duty Act, some of the assets of the said firm cannot be revalued disregarding the value of those aspects as appearing in the balance-sheet of the firm.

4. In the result, the question is answered in the negative, in favour of the assessee. No costs.

J.M. Mahapatra, J.

5. I agree.

