(1990) 03 MAD CK 0047

In the Madras High Court

Case No : Tax Case No. 50 of 1980 (Reference No. 50 of 1980)

Controller of Estate Duty — APPELLANT

Vs

Mani Raj and others — RESPONDENT

Date of Decision : 28-03-1990

Acts Referred:
Estate Duty Act, 1953 — Section 10, 2(15), 27, 34(1)

Citation : (1990) 186 ITR 558

Hon'ble Judges : V. Ratnam, J;T. Somasundaram, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; Mrs. Chitra Venkataraman, for the Respondent

Judgement

Ratnam, J.—In this reference u/s 64(1) of the Estate Duty Act, 1953, at the instance of the Controller of Estate Duty, the following three

questions of law have been referred to this court for its opinion :

(1) Whether, on the facts and in the circumstances of the case, the value of the properties admitted by the accountable person in annexure ''F'' of

the estate duty account could not be included in the principal value of the deceased''s estate in terms of section 10 read with section 27 of the

Estate Duty Act ?

(2) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the throwing of personal property by

a coparcener into the common hotchpot of the family would not amount to a ''disposition'''' within the meaning of Explanation 2 to section 2(15) of

the Estate Duty Act ?

(3) Without prejudice to questions Nos. (1) and (2) above, whether the Appellate Tribunal was right in holding that the lineal descendants'' share in

the aforesaid properties cannot be aggregated u/s 34(1)(c) for rate purposes ?

2. In so far as questions Nos. 1 and 2 are concerned, the decision of this court in Tax Case No. 580 of 1977 dated November 12, 1981 is against

the Revenue. In view of that, questions Nos. 1 and 2 have to be answered in the affirmative and against the Revenue.

3. In so far as the third questions is concerned, section 34(1)(c) of the Estate Duty Act had been struck down as being violative of article 14 of the

Constitution of India in the decision reported in V. Devaki Ammal Vs. Assistant Controller of Estate Duty, . Under those circumstances, the

Tribunal was quite right in holding that there cannot be an aggregation under that section. We, therefore, answer the third question also in the

affirmative and against the Revenue. There will be no order as to costs.