(2000) 12 DEL CK 0096

In the Delhi High Court

Case No : Estate Duty Reference No. 4 of 1986

Controller of Estate Duty APPELLANT

Vs

P.N. Luthra RESPONDENT

Date of Decision : 13-12-2000

Acts Referred:

Estate Duty Act, 1953 — Section 36(3), 64(1)

Citation : (2001) 169 CTR 544 : (2001) 250 ITR 316 : (2002) 120 TAXMAN 224

Hon'ble Judges : Dr. Arijit Pasayat, C.J;D.K. Jain, J

Bench : Division Bench

Advocate : R.D. Jolly, R.C. Pandey, Sanjeev Khanna and Ajay Jha, for the Appellant; None, for the Respondent

Judgement

Arijit Pasayat, C.J.—At the instance of the Revenue, the following question has been referred u/s 64(1) of the Estate Duty Act, 1953 (in short the "Act"), for the opinion of this court :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in directing the valuation of the property at 151, Golf Links, New Delhi, in accordance with Section 36(3) of the Estate Duty Act, 1953, read with rule 1BB of the Wealth-tax Rules, 1957, when the death of Shri J. C. Luthra occurred on September 12, 1979, whereas Sub-section (3) of Section 36 of the Estate Duty Act, 1953, was brought on the statute book with effect from March 1, 1981 ?"

2. We have heard learned counsel for the Revenue. There is no appearance on behalf of the assessed in spite of service.

3. In Commissioner of Wealth Tax, Meerut Vs. Sharvan Kumar Swarup and Sons, it was held that rule 1BB of the Wealth-tax Rules, 1957, partakes of the character of a rule of evidence. It deems the market value to be the one arrived at on the application of a particular method of valuation which is also one of the recognised and accepted methods. As the rule is procedural and not substantive

it is applicable to all proceedings pending on April 1, 1979, when the rule came into force.

4. In view of the decision of the apex court, the obvious answer to the question is in the affirmative, in favor of the assessed and against the Revenue.

5. The reference stands disposed of.

