(1984) 10 KAR CK 0035

In the Karnataka High Court

Case No : Tax Reference Case No''s. 17 of 1974 and 85 of 1975

Controller of Estate Duty APPELLANT

Vs

Smt. Andal Thayaramma RESPONDENT

Date of Decision : 26-10-1984

Acts Referred:

Citation : (1985) 151 ITR 197

Hon'ble Judges : S.A. Hakeem, J;Mohammad Sharif, J;K.S. Puttaswamy, J;K. Jagannatha Shetty, J

Bench : Full Bench

Advocate : G. Sarangan, for the Appellant; K.R. Prasad and S.G. Shivaram, for the Respondent

Judgement

K.S. Puttaswamy, J.—In Tax Reference Case No. 17 of 1974, the Tribunal, Bangalore Bench, at the instance of the revenue, has referred the following questions u/s 64(3)(b) of the Estate Duty Act, 1953 (''the Act''):

1. Whether, on the facts and in the circumstances of the case, it was for the Tribunal, an error of law to hold that the provisions of section 7(1) of the Estate Duty Act are not applicable to the case?"

2. Whether, on the facts and in the circumstances of the case it was for the Tribunal, an error of law to hold that the provisions of section 34(1)(c) of the Estate Duty Act are not applicable to the case?

In Tax Reference Case No. 85 of 1975, the Tribunal at the instance of the accountable person has referred the following question:

Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the provisions of section 34(1)(c) of the Estate Duty Act were operative and applicable to the facts of the case?

In order to appreciate the questions referred to this Court and the answers to be furnished thereto, it is necessary in the first instance to notice the facts of the cases.

Tax Reference Case No. 17 of 1974 : One A.G. Changalarayulu, a member of a Mitakshara ''HUF'', consisting of himself, his wife Smt. Andal Thayaramma, his son and a daughter, died on 17-4-1964. The HUF owned movable and immovable properties.

2. On the death of her husband, Andal Thayaramma filed a return under the Act before the Assistant Controller, who, by his order dated 21-2-1969 (Annexure A), inter alia, held that a sum of Rs. 1,46,711, the value of the half share of the lineal descendants of the deceased, was aggregable with the estate passing on the death of the deceased for the purposes of rates of duty payable. Against the said order of the Assistant Controller and the aforesaid aggregation, with which alone, we are presently concerned, the assessee filed an appeal before the Appellate Controller, Southern Zone, Madras, who, by his order, dated 26-12-1970 (Annexure B), dismissed the same. Against the said orders of the Appellate Controller and the Assistant Controller, the assessee filed a second appeal before the Tribunal, which, by its order dated 23-2-1974, accepted the same and held that the said aggregation was impermissible. Hence, this reference at the instance of the revenue.

3. Tax Reference Case No. 85 of 1975 : One Shambulingegowda of Sakleshpur, who was a member of a HUF and a Mitakshara coparcenary consisting of himself and his four sons, Shop Shivappa, Shop Subbegowda, Shop Shanthappa and Shop Siddegowda, died on 28-5-1966. The HUF owned various movable and immovable properties.

4. On the death of Shambulingegowda, his eldest son, Shop Shivappa, filed a return under the Act before the Assistant Controller, who on an examination of the same, by his order dated 30-11-1968 (Annexure A), determined the four-fifth share value of the lineal descendants at Rs. 4,63,974 and aggregated the same for determining the rate of estate duty payable on the estate passing on the death of the said Shambulingegowda. In the appeals filed by the assessee, the said aggregation has been upheld by the Appellate Controller and the Tribunal. Hence, this reference at the instance of the assessee.

5. In Tax Reference Case No. 17 of 1974, the Tribunal, relying on a Division Bench ruling of the Mysore High Court in M. Ratnamala Amma Vs. Assistant Controller of Estate Duty and Others, has held that the share of lineal descendants cannot be aggregated. But, in Tax Reference Case No. 85 of 1975, when a similar question arose, the very Tribunal took the view that the ratio in M. Ratnamala Amma''s case (supra) was not attracted and that the principles enunciated by the Supreme Court in M.K. Balakrishnan Menon Vs. The Assistant Controller of Estate Duty-cum-Income Tax Officer, Ernakulam, applied.

6. Both these cases were initially heard by a Division Bench consisting of Srinivasa Iyengar and Rama Jois, JJ. and their Lordships, having regard to the conflicting views expressed by the Tribunal and doubting the correctness of the

view expressed in M. Ratnamala Amma''s case (supra), have referred them to a larger Bench for disposal. Accordingly, these cases have come up before us.

7. Shri G. Sarangan, the learned Advocate appearing for the revenue, and Sriyuths K.R. Prasad and S.G. Shivaram, the learned Advocates appearing for the assessees, in Tax Reference Case Nos. 17 of 1974 and 85 of 1975, respectively, relying on certain rulings that will be noticed at the appropriate stages, have urged for answering the questions in favour of their respective parties.

8. We have earlier noticed that in both the cases, there were lineal descendants and the value of their shares have been aggregated in determining the rates of estate duty payable by the assessees under the Act. But, the dispute between the assessees and the revenue is, whether the value of the shares of the lineal descendants can or cannot be aggregated under the Act. In order to resolve this short but interesting question, accentuated by the conflicting views expressed by the Tribunal, we consider it proper to independently examine the Act and the material provisions of the Act, viz., sections 7 and 34 of the Act.

9. In interpreting the Act and the material provisions, it is pertinent to remember the oft-quoted classical statement of Rowlatt, J. in Cape Brandy Syndicate v. IRC [1921] 1 KB 64 referred to with approval by Supreme Court in more than one case, which reads thus:

In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used." (p. 71)

In construing the provisions of the Act, our Supreme Court in Controller of Estate Duty, Madras Vs. Alladi Kuppuswamy, has expressed thus:

The last plank of the argument of the respondent was that the Estate Duty Act being a fiscal statute should be construed strictly so as to give every benefit of doubt to the subject. There can be no quarrel with this proposition but when the phraseology of a particular section of the statute takes within its sweep the transaction which is taxable, it is not for the Court to strain and stress the language of the section so as to enable the taxpayer to escape the tax...." (p. 451)

Bearing these principles, we shall now proceed to ascertain the true scope and ambit of the Act, in general, and sections 34 and 7, in particular, in that order.

10. The Act has been enacted to levy and collect estate duty. The term ''estate duty defined in the Act in article 366(9) of the Constitution of India as ''a duty to be assessed on or by reference to the principal value, as curtained in accordance with such rules as may be prescribed by or under laws made by the Parliament or the Legislature of a State relating to the duty of all property passing upon death or deemed, under the provisions of the said laws, so to pass''.

11. Section 2 of the Act defines certain terms. Section 2(15) defines ''property'' as including any interest in property, either movable or immovable. Section 2(16) defines ''property passing on the death'' as including property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation.

12. Section 3 of the Act sets out certain special rules of interpretation in interpreting certain provisions, terms or concepts occurring in the Act. Wherever the context so justifies, the Court is bound to apply those rules of interpretation and, thus, achieve the purposes of the Act.

13. Section 5 of the Act is the charging section. Section 5 provides for the levy of estate duty on the principal value of the property that passes or deemed to pass from the deceased to be ascertained in accordance with the detailed provisions made thereto in the Act.

14. Part IV of the Act deals with aggregation of property and rates of duty payable thereon under the Act. Section 34 deals with aggregation. Section 35 of the Act deals with rates of duty whenever there are aggregations u/s 34 and not otherwise.

15. Section 34, as originally enacted reads thus:

Aggregation. - (1) For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing, excluding--

property exempted from duty under clauses (c), (d), (e), (i) and (j) of sub-section (1) of section 33.

but including--

(i) property on which no estate duty is leviable u/s 35,

(ii) property exempted from duty under clauses (a), (b), (f), (g), (h) and (k) of section 33, and

(iii) agricultural land situate in any State not specified in the First Schedule,

shall be aggregated so as to form one estate and the duty shall be levied at the rate or rates applicable in respect of the principal value thereof:

Provided that any property so passing, in which the deceased never had an interest, not being a debt or right or benefit that is treated as property by virtue of the Explanations to clause (15) of section 2, shall not be aggregated with any other property, but shall be an estate by itself and the estate duty shall be leviable at the rate or rates applicable in respect of the principal value thereof.

(2) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(3) Property passing on any death shall not be aggregated more than once nor shall estate duty in respect thereof be levied more than once on the same death.

(4) Where an estate includes any property which is exempt from estate duty, the estate duty leviable on the property which is not so exempt shall be an amount bearing to the total amount of duty which would have been payable on the whole estate had no part of it been exempted the same proportion as the unexempted value of the property bears to the value of the whole estate.

Explanation : For the purposes of this subsection property which is exempt from estate duty means any property which is exempt from estate duty u/s 33 and also any agricultural land situate in any State not specified in the First Schedule.

But, by the Estate Duty (Amendment) Act, 1958 (''the Amending Act'') that came into force on 1-7-1960, which governs these cases, the above section has been re-cast and substituted and that section, with certain minor amendments made thereafter by the later Finance Acts that are not material to notice, reads thus:

34. Aggregation. -(1) For the purpose of determining the rate of the estate duty to be paid on any property passing on the death of the deceased,--

(a) all property so passing other than property exempted from estate duty under clauses (c), (d) (e), (i), (j), (l), (m), (mm), (n), (o) and (p) of sub-section (1) of section 33;

(b) agricultural land so passing, if any, situate in any State not specified in the First Schedule; and

(c) in the case of property so passing which consists of a coparcenary interest in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law, also the interests in the joint family property of all the lineal descendants of the deceased member;

shall be aggregated so as to form one estate and estate duty shall be levied thereon at the rate or rates applicable in respect of the principal value thereof.

(2) Where any such estate as is referred to in sub-section (1) includes any property exempt from estate duty, the estate duty leviable on the property not so exempt shall be an amount bearing to the total amount of duty which would have been payable on the whole estate had no part of it been so exempt, the same proportion as the value of the property not so exempt bears to the value of the whole estate.

Explanation: For the purposes of this subsection, ''property exempt from estate duty'' means--

(i) any property which is exempt from estate duty u/s 33;

(ii) any agricultural land situate in any State not specified in the First Schedule;

(iii) the interests of all coparceners other than the deceased in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law.

(3) Notwithstanding anything contained in sub section (1) of subsection (2), any property passing in which the deceased never had an interest not being a right or debt or benefit that is treated as property by virtue of the Explanations to clause (15) of section 2, shall not be aggregated with any property, but shall be an estate by itself, and the estate duty shall be levied at the rate or rates applicable in respect of the principal value thereof.

(4) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(5) For the purposes of this section, no property shall be aggregated more than once nor shall estate duty in respect thereof be levied more than once on the same death.

It is now necessary to make a detailed analysis of this section.

16. Earlier, we have noticed that charge to estate duty arises when property passes or is deemed to pass from the deceased. In such a situation and as a necessary concomitant, section 34 provides for aggregation of all such properties subject to such exemptions provided thereto by the Act. When there is such aggregation, the rate of estate duty to be levied shall be on the whole of such aggregated property.

17. Aggregation for rate purposes, provided in the Act, is nothing new or novel and is on the familiar pattern in other taxation measures like the income tax Act, 1961, and levy of estate duty in England, on which the Act is generally modelled, however, taking care to comprehend the peculiarities prevailing in our country. We are conscious that it is unsafe to interpret the Act with reference to other enactments or the enactments prevailing in England and the rulings rendered by the English Courts on those provisions. But, still we are of the view that what has been stated in the classic treatises like Dymond''s Death Duties and Green''s Death Duties on the general principles of aggregation is worth recalling. On ''aggregation'' Dymond''s Death Duties, Fifteenth edn., states thus:

The rates of duty depend on the value of the property passing; for determining the rate, the principle of ''aggregation'' was introduced by the Finance Act, 1894, section 4 (amended by the Finance Act, 1900, section 12, the Finance Act, 1907, section 16 and the Finance Act, 1927, section 51). Thus, where several distinct estates pass on a person''s death, as, for instance, his free estate and settled property, under different titles, the values of all the properties are required to be added together and the rate of duty is ascertained from the aggregated total, Property (exclusive of certain settled property) not exceeding ?15,000 (the Finance Act, 1894, section 16(3), as substituted by the Finance Act, 1954, section 33(1), and amended by the Finance Act, 1972, section 120(3) is the main exception: this exception (known as the ''smallestate'') grew by stages from a figure of ?1,000 in the original section 16(3), and the 1954 Act, which increased the amount to ?10,000, altered the constitution of the ''small estate'' by including in it property settled by the deceased and certain other defined types of settled property and contained a ''marginal'' provision (still operative), where ?10,000 (now ?15,000) is exceeded. Formerly, there was also an important exception from aggregation (under the proviso to section 4 of the 1894 Act) for property in which the deceased never had an interest, subject [under section 33(2) of the 1954 Act] to the partial aggregation inter se of policies of insurance and interests therein where these were free from general aggregation; but as respects deaths on and after 20th March, 1968, this relief was removed from claims on a gift basis by the Finance Act, 1968, section 38, and with the elimination of duty on most of such property, the exception was repealed altogether as respects deaths after 15th April, 1969, by the Finance Act, 1969, subject in each case to limited savings for policies and annuity contracts effected before 20th March, 1968.

The rates of duty increase with the size of the aggregable estate, and until 1969, duty was chargeable on what is sometimes called a ''slab'' basis on the whole aggregable value according to the rate band which it came within; the rates, originally rising from 1 percent. for estates between ?100 and ?500 to a maximum of 8 percent. for estates exceeding ?1,000,000, were increased by successive Finance Acts till they reached 1 percent for estates between a minimum dutiable figure of ?5,000 and ?6,000 rising to 80 percent for estates over ?1,000,000; subject to reduction in the full amount of the duty where the margin above the next step was (comparatively) small [under the Finance Act, 1914, section 13(1)]...."- (vide, pp. 2 & 3, ''Introduction'').

F. Aggregation

For the purpose of determining the estate duty to be paid on any property passing on the death of the deceased, all property so passing in respect of which estate duty is leviable has to be aggregated (with special exceptions) so as to form one estate, and the duty levied on the principal value thereof; the Finance Act, 1894, section 4, as amended by the Finance Act, 1969, Schedule 21, Part V.

Aggregation affects only property which is actually or notionally chargeable with estate duty on the death, so that where property passing is exempt from estate duty, it is not liable to aggregation. For exemptions from estate duty, including relief for widows, charities, etc. (the Finance Act, 1972), see Chapter XX, p. 1012 et seq. But the fact that the estate duty chargeable on a particular fund may be covered by an allowance (e.g., of settlement estate duty paid on a prior death), or is irrecoverable, will not render that fund immune from aggregation, the duty being nonetheless leviable. The duty is similarly leviable and the property liable to aggregation, where the rate of duty is reduced to nil by an allowance for legacy duty or succession duty under the Finance Act, 1949, section 29- see p. 1193 et seq. and the wording of section 29(1)(b). Subject to the provisions relating to small estates (pp. 665-681, infra), property passing under a particular title, does not escape aggregation by reason of its separate value not exceeding ? 15,000. The principles of aggregation are not affected by the provisions of the various Double Taxation Agreements (see p. 1346 et seq.), although where they exclude property from liability to duty they also exclude it from aggregation." (vide p. 663)

On the same topic, Green''s Death Duties, (seventh edn.) states thus:

Amount of duty. -For determining the amount of estate duty, all the property liable to estate duty on the death is aggregated so as to form one ''estate''. The duty is then ascertained by applying to the aggregate ''estate'' an ascending percentage scale of rates in respect of successive ''slices of the estate. Under the current scale an ''estate'' not exceeding ?12,500 goes free, and the rates thereafter rise from 25 percent (on the ''slice'' between ?12,500 and ?17,500) to 85 percent (on the ''slice'' in excess of ?750,000). Finally, the amount of duty payable on each item is determined by apportioning the total of the duty on the successive ''slices'' making up the aggregate estate'' rate ably according to value among the various components of the ''estate''.

Where duty is charged on agricultural property and industrial premises, plant or machinery used in a business, the amount of duty attributable to the property is reduced by 45 percent.

Where the property passing on the death, after excluding property settled by persons other than the deceased, does not exceed ?12,500, it is protected from aggregation with that settled property and is treated as an ''estate by itself. Marginal provisions afford a partial relief, where the figure of ?12,500 is exceeded. The duty charged on the non-settled property is restricted to the amount of the excess over ?12,500." (vide p. 5)

Aggregation

The duty is leviable, notwithstanding that it may be remitted. But, in most cases in which the question of aggregation could arise, the property in respect of which the duty is remitted is excluded from aggregation either by the terms of the enactment, which authorises the remission or by concession. These cases appear in the list of exceptions below.

If the duty presumptively payable in respect of settled property on a future death is commuted, it is no longer leviable and the value of such property cannot be taken into account when the death occurs.

Duty which is covered by an allowance, (e.g., for Settlement of Estate Duty or foreign duty) is nonetheless leviable, and the absence of an actual payment does not exclude the property from aggregation. Duty is also leviable, notwithstanding that the Crown may fail to recover it.

It is immaterial that the different parcels of property pass under different titles and to different beneficiaries, and that different persons are accountable. For example, the following items are aggregated:

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the deceased''s free estate bequeathed to his wife

14,000

a gift inter vivos made be him to his son

1,000

property settled by a stranger on trust for the deceased for life and then for a charity

10,000

Total

25,000

The amount of duty chargeable it determined by reference to that total of ?23,000 as ''the aggregate principal value of all the property comprised in the estate''; as explained later in this chapter, that amount is ?3,500 and it is attributed proportionally to the three items making up the ''estate''." (vide p. 357)

With this back drop of the legal principles, we will now ascertain the scope and ambit of section 34.

18. Section 34(1)(a) sets out in detail the properties exempted from duty but are still aggregated for rate purposes. A detailed enumeration of the properties exempted u/s 34(1)(a) and the extent of exemption is not necessary for these cases. Section 34(1)(c) provides for aggregation of the value of agricultural lands that are not subject to estate duty under the Act. Section 34(1)(c) provides for the aggregation of a coparcenary interest in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law, as also the interests in the joint family property of the lineal descendants of the deceased member.

19. Under the Act, as it originally stood prior to its amendment by the Amending Act, there were two rates of estate duty, one in the case of property, which consists of an interest in the joint family property of a Hindu family governed by Mitakshara, Marumakkattayam or Aliyasantana law, (vide Part I of the Second Schedule to the Act) and the other in the case of other properties (vide Part II of the Second Schedule). In the case of properties falling under Part II, the first slab exempted from duty was Rs. 50,000 and in the case of properties falling under Part II, the first slab exempted from duty was Rs. 1,00,000. The Amending Act abolished these distinctions and differences, introduced a uniform first exemption slab at Rs. 50,000 and section 34(1)(c) - vide Notes on Clause 30 of Bill No. 18 of 1958, page 339 of Gazette of India (Extraordinary), dated

28-2-1958. In the later amendments, the exemption limits have been raised. But, that does not make any difference on the scope and ambit of this provision. Section 34(1)(c) clearly provides for aggregation of the interests of lineal descendants of the deceased in the joint family property for the purposes of determining the rate of duty leviable under the Act.

The aggregation is of the interest of the lineal descendants only and not of others (vide Notes on clause 17 of the Bill proposing the amendment to original section 34). But, in the case of such aggregation, it is necessary to notice that under Explanation (iii) of sub-section (2) of section 34, the interests of all coparceners other than the deceased in the joint family property is exempted from payment of estate duty- We are of the view that this construction of section 34 is in accord with the amendments made by the Amending Act.

20. In Maharani Raj Laxmi Kumari Devi Vs. Controller of Estate Duty, and Ramniklal J. Daftary Vs. Controller of Estate Duty, Gujarat, the Allahabad High Court and the Gujarat High Court have taken a similar view. We are in respectful agreement with the views expressed by their Lordships in these cases.

21. On the true scope and ambit of section 7, as we apprehend, the matter is concluded by the ruling of the Supreme Court in Auadi Kuppuswamy''s case (supra), in which Murtaza Fazal Ali, J., speaking for the Court, expressed thus:

It would be seen that section 7(1) consists of two parts-the first part refers to the interest of the deceased which ceases on his death and according to this part two conditions are necessary before there is a passing of the interest-(1) that there must be a cesser of the interest by virtue of the death of the deceased, and (2) that as a result of such cesser a benefit accrues or arises. The second part of subsection (1) contains an inclusive category which brings within the fold of sub-section (1) a coparcenary interest in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law. In the instant case, we are mainly concerned with the Mitakshara law...." (p. 443)

Section 7(2) only carves out certain exceptions to what is provided in section 7(1). We are of the opinion that this enunciation made in a case arising on the death of a Hindu widow before the Hindu Succession Act, 1956, came into force, is equally applicable to cases arising on and after the 1956 Act came into force. In his Treatise on Hindu Law, third edn., on the topic ''Joint Family and Tax Law'' dealing with section 7, vol. I, p. 509, S.V. Gupta has also expressed the same view.

22. In Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum [1980] 129 ITR 440 (SC), on which strong reliance was placed for the assessees to contend that on a combined reading of section 6 of the Hindu Succession Act and section 7 of the Estate Duty Act, there would be an actual partition and cesser of interest, the Supreme Court has ruled that section 6 of the Hindu Succession Act only creates a fictional partition and not an actual partition. We see no merit in the contention of the assessees that Gurupad Khandappa Magdutri''s case

(supra) has the effect of creating an actual partition in the event of a death of a coparcener of a joint Hindu family governed by Mitakshara law and, therefore, there can be no aggregation of the share values of the lineal descendants u/s 34.

23. In Maharani Raj Laxmi Kumari Devi''s case (supra), the Allahabad High Court dealing with a similar contention urged for the assessees on a detailed examination of the provisions of the Hindu Succession Act and section 7 of the Estate Duty Act has rejected the same (vide pp. 1006 to 1009). We are in respectful agreement with the reasoning and conclusions of their Lordships in Maharani Raj Laxmi Kumari Devi''s case (supra) on this point also.

24. We have carefully read the ruling of the Supreme Court in M.K. Balakrishnan Menon''s case (supra). We are of the opinion that this ruling that dealt with the case of ''Sthanam property'' in the State of Kerala and the true scope and ambit of section 7(3), does not really bear on the construction of section 7(1) and (2) with which alone, we are concerned in these cases and the same does not assist either the revenue or the assessees. We are, however, of the view that the principles enunciated in M.K. Balakrishnan Menor''s case (supra) does not in any way detract on the agreeability of the share values of the lineal descendants for rate purposes u/s 34.

25. In M. Ratnamala Amma''s case (supra), this Court did not consider and express any opinion on the true scope and ambit of section 34. We are of the view that the ratio in M. Ratnamala Amma''s case (supra) does not really bear on any of the questions that arose before the Tribunal or referred for our opinion. We, therefore, consider it unnecessary to closely examine this case and express on the correctness or otherwise of this ruling.

26. On the above discussion, it follows that our answer to the questions referred by the Tribunal in the two cases have to be answered in favour of the revenue and against the assessees. We, accordingly, answer the questions.

Tax Reference Case No. 17 of 1974

Questions

Answers

1. Whether, on the facts and in the circumstances of the case, it was for the Tribunal, an error of law to hold that the provisions of section 7(1) of the Estate Duty Act are not applicable to the case?

On the facts and in the circumstances of the case, the Tribunal committed an error of law in holding that section 7 of the Act was not applicable.

2. Whether, on the facts and in the circumstances of the case, it was for the Tribunal, an error of law to hold that the provisions of section 34(1)(c)of the Estate Duty Act are not applicable to the case?

On the facts and in the circumstances of the case, the Tribunal committed an error of law in holding that section 34(1)(c) of the Act had no application.

Tax Reference Case No. 85 of 1975

Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the provisions of section 34(1)(c) of the Estate Duty Act were operative and applicable to the facts of the case?

On the facts and in the circumstances of the case, the Tribunal was right in holding that section 34(1)(c) of the Act was applicable.

As noticed earlier, the questions raised were not free from doubt and the Tribunal had even expressed conflicting views. In these circumstances, we consider it proper to direct the parties to bear their own costs. We, therefore, direct the parties to bear their own costs.