(1991) 03 BOM CK 0044

In the Bombay High Court

Case No : Estate Duty Reference No. 37 of 1977

Controller of Estate Duty APPELLANT

Vs

Smt. S.R. Wadhelwala RESPONDENT

Date of Decision : 20-03-1991

Acts Referred:
Estate Duty Act, 1953 — Section 2(15), 27, 9

Citation : (1991) 192 ITR 480

Hon'ble Judges : T.D. Sugla, J;B.N. Srikrishna, J

Bench : Division Bench

Advocate : Dr. V. Balasubramanian, for the Appellant; S.J. Mehta, for the Respondent

Judgement

B.N. Srikrishna, J.—The Tribunal has referred the following question u/s 64(1) of the Estate Duty Act, 1953, for the opinion of this court. That question is :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that premia amounting to Rs. 24,208 paid by the deceased within a period of two years before his death in respect of a policy taken by him under the Married Women''s Property Act, 1874, are not to be included in the principal value of the estate of the deceased under the provisions of section 9 read with section 27 and section 2(15) of the Estate Duty Act, 1953 ?"

2. In this case, insurance policies were taken out under the Married Women''s Property Act by the deceased. With computing the value of the principal estate of the deceased, the Assistant Controller included a sum of Rs. 24,208 which represented the premia paid by the deceased in respect of the policies within two years before the death of the deceased. The Tribunal has taken the view that no estate duty liability arises in regard to the aforesaid premia u/s 9 of the Estate Duty Act.

3. This court has, in Commissioner of Gift Tax Vs. Seth Arvind N. Mafatlal, , taken

the view that the premia paid by the assessee in respect of the policies of insurance of his life taken out under the provisions of the Married Women''s Property Act for the benefit of his children would be in discharge of his obligation and would not amount to gifts made by the assessee to the beneficiaries of the policies. In this view of the matter, if the premia do not amount to gifts, it is obvious that sections 9 and 27 would not apply. We, therefore, answer the question in the affirmative and in favour of the accountable person.

4. No order as to costs.