(2004) 11 AHC CK 0193

In the Allahabad High Court

Case No : WT Reference No''s. 116,117 of 1987 20 November 2004

CWT APPELLANT

Vs

Chakrabarty Sadh RESPONDENT

Date of Decision : 20-11-2004

Acts Referred:

Citation : (2005) 146 TAXMAN 387

Hon'ble Judges : R.K. Agrawal, J;Prakash Krishna, J

Bench : Full Bench

Advocate : A.N. Mahajan for the Assessee, for the Appellant;

Final Decision : Allowed

Judgement

1. In these references the Income Tax Appellate Tribunal, Allahabad has referred the following similar question of law u/s 27(I) of the Wealth Tax Act, 1957, hereinafter referred to as ''the Act'', for opinion to this Court:

"Whether on the facts and in the circumstances of the case, the assessee was entitled to exemption u/s 5(1)(xxxii) of the Wealth Tax Act, 1957, in respect of his share in the firm M/s. NX Overseas Traders, Farrukhabad ?"

Reference No. 116 of 1987 relates to the assessment years 1977-78 to 197980 and Reference No. 117 of 1987 relates to the assessment years 1981-82 to 1983-84.

Briefly stated the facts giving rise to both the references are as follows:

2. The respondent-assessee is an H.U.F. and is a partner in M/s. NX Overseas Traders, Farrukhabad, which is engaged in dyeing, printing white cotton cloth and preparing garments, bed spreads, and scarves. The respondent claimed exemption u/s 5(I)(xxxii) of the Act in respect of his share in the above firm. The Wealth-tax Officer did not accept the claim of the respondent. In appeal the Appellate Assistant Commissioner had allowed the claim which order had been affirmed by the Tribunal.

We have heard Sri A.N. Mahajan, learned Standing counsel for the revenue. Nobody has appeared on behalf of the respondent-assessee.

3. We find that this court in Commissioner of Wealth-tax Vs. Jagphool Narain, has held that process of purchasing plain white cloth and converting it into printed bed-spreads, scarves, garments, etc., by a process of dyeing and printing constitutes the unit an "industrial undertaking" and, therefore exemption u/s 5(l)(xxxii) of the Act is available and in another case of CWT v. Chintamani (1993) 199 ITR 921 this court has taken the similar view.

4. Respectfully following the aforesaid decisions, we answer the question referred to us in the affirmative, i.e., in favour of the assessee and against the revenue. However, there shall be no order as to costs.

