

(2003) 01 AHC CK 0027

In the Allahabad High Court

Case No : WT Reference No. 129 of 1982 20 January 2003

CWT

APPELLANT

Vs

Dr. Gaur Hari Singhania (HUF)

RESPONDENT

Date of Decision : 20-01-2003

Acts Referred:

Citation : (2003) 132 TAXMAN 74

Hon'ble Judges : Prakash Krishna, J;M. Katju, J

Bench : Full Bench

Advocate : Vikram Gulati, for the Appellant;

Judgement

Prakash Krishna, J.

The following question of law has been referred to this court at the instance of the revenue :

"Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the depreciation, which was not a liability shown in the balance sheet should be deducted while valuing the unquoted shares under rule 1D of the Wealth Tax Rules, 1958 ?"

2. The assessee is a HUF and the assessment year involved is 1969-70. The assessee held certain shares in M/s. J.K. Jute Mills Company Ltd., Kanpur. The assessee claimed that while valuing the shares of the aforesaid company under rule 1D of the Wealth Tax Rules, deduction should be allowed for unprovided depreciation. The Wealth Tax Officer did not agree with the contention of the assessee and held that only such deductions could be allowed which are provided for under the aforesaid rule 1D. In appeal before the Appellate Assistant Commissioner, the contention of the assessee was accepted. The judgment of the Appellate Assistant Commissioner was confirmed in further appeal before the Tribunal.

3. The Honble Supreme Court in Bharat Hari Singhania and others Vs.

Commissioner of Wealth Tax (Central) and others, has held that rule 1D of the said Rules is mandatory and has rejected the contention of the assessee that it is merely directory and that it need not be followed at the choice of the Wealth Tax Officer or the assessee. The aforesaid view has been reiterated by the Supreme Court in Commissioner of Wealth-tax Vs. T.S. Santhanam and Others, .

4. Following the aforesaid decisions, while valuing the unquoted shares of M/s. J.K. Jute Mills Company Limited held by the assessee only such deductions are permissible as those provided for in the aforesaid rule 1D. It was submitted by Sri Vikram Gulati, counsel for the assessee, that the unprovided depreciation is evidenced by the note attached to Schedule (F) to 40th annual report of that company, and, therefore, should be deducted from the total assets shown by the company in the balance sheet. The fact remains that the said depreciation amount was not provided for in the balance sheet. Hence following the aforesaid two decisions of the Supreme Court, we are of the view that the depreciation, which was not a liability shown in the balance sheet should not be deducted while valuing the unquoted shares. Rule 1D of the Wealth Tax Rules does not permit such deduction of depreciation not disclosed in the balance sheet towards liability side.

5. The aforesaid question is, therefore, answered in the negative, i.e., against the assessee and in favour of the department.