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(2002) 12 MAD CK 0194

In the Madras High Court

Case No : T.C. No''s. 229 and 230 of 1999 3 December 2002

CWT APPELLANT

Vs

L. Dorairaj RESPONDENT

Date of Decision : 03-12-2002

Acts Referred:

Citation : (2003) 130 TAXMAN 490

Hon'ble Judges : N.V. Balasubramanian, J;K. Raviraja Pandian, J

Bench : Full Bench

Advocate : Mrs. Pushya Sitharaman, for the Revenue Philip George, for the Assessee, for the Appellant;

Judgement

N.V. Balasubramanian, J.

The Income Tax Appellate Tribunal has stated the case and referred the following question of law in relation to the assessment years 1974-75 & 1975-76 for our consideration.

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in deleting the additional wealth tax charged on urban properties when the ownership of the properties vests with the appellant?"

2. Mr. Philip George undertakes to file vakalat for the respondent.

3. Mrs. Pushya Sitharaman, learned senior standing counsel appearing for the revenue fairly submitted that the issue raised in the question is covered against the revenue by the decision of this court in Commissioner of Wealth-tax Vs. C.G. Radhakrishnan, . It is relevant to notice that the Full Bench of the Karnataka High Court in Commissioner of Wealth-tax Vs. D.M. Srinivas, has followed the view taken by this court in C.G. Radhakrishnan''s case (supra) and held as under :

"...Therefore, while computing the net wealth of the assessee owning the urban asset, the business premises in which the business is carried on by the firm, of

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which he is a partner, shall have to be excluded since there is nothing to show in the definition of the words business premises in rule 1 of Para B of the Schedule that the benefit of the provisions would not be available, if the business premises owned by the assessee are utilised by the firm of which the assessee is a partner for its business purposes..." (p. 414)

4. Following the decision of this court in C.G. Radhakrishnan''s case (supra) and the Full Bench judgment of the Karnataka High court in D.M. Srinivas'' case (supra), we hold that the Income Tax Appellate Tribunal was correct in deleting the additional wealth-tax charged on urban properties, when the ownership of the properties vests with the assessee.

5. Accordingly, the question of law referred to us is answered in the affirmative against the revenue and in favour of the assessee. No costs.

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