**(2005) 01 AHC CK 0211**

**In the Allahabad High Court**

**Case No :** WT Reference No. 78 of 1990 4 January 2005

CWT APPELLANT

Vs

Mahabir Prasad Jain RESPONDENT

**Date of Decision :** 04-01-2005

**Acts Referred:**

**Citation :** (2005) 145 TAXMAN 584

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

**Bench :** Full Bench

**Advocate :** Shambhoo Chopra, for the Revenue, for the Appellant;

## Judgement

1. The Income Tax Appellate Tribunal, New Delhi has referred the following question of law u/s 27(1) of the Wealth Tax Act, 1957, hereinafter referred to as the Act, for opinion to this court.

"Whether, the Income Tax Appellate Tribunal is legally correct in holding that the assessee was entitled to exemption u/s 5(1)(iv) of the Wealth Tax Act in respect of his share in value of immovable properties which belonged to the firm of which the assessee is a partner ?"

2. The present Reference relates to the assessment years 1983-84 and 1984-85.

3. Briefly stated the facts giving rise to the present Reference are as follows:

The respondent-assessee is a partner in the firm M/s. Agra Steel Corporation, Agra. He claimed exemption in respect of 1/4th share in the building and land appurtenant thereto owned by the firm. The Wealth Tax Officer rejected the claim of exemption on the ground that the building is owned by the firm and not by the respondent-assessee. Feeling aggrieved by the assessment order the respondent-assessee preferred an appeal before the Deputy Commissioner (Appeals), Agra, who accepted the claim of the respondent-assessee and allowed the exemption, which order was upheld by the Tribunal.

4. We have heard Sri Shambhoo Chopra, learned standing counsel appearing for

 

the revenue. Nobody has appeared for the respondent assessee.

5. We find that the Apex Court in the case of Commissioner of Wealth Tax, T.N.-III, Madras Vs. T.S. Sundaram, Madras, has held that the partners are entitled to claim exemption in their individual assessment in respect of the assets of the firm which is exempted u/s 5 of the Act. Respectfully following the aforesaid decision, 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.