(2002) 07 RAJ CK 0147

In the Rajasthan High Court

Case No : WT Reference No. 33 of 1988 1 July 2002

CWT APPELLANT

Vs

Shyam Mohan Rawat RESPONDENT

Date of Decision : 01-07-2002

Acts Referred:

Wealth Tax Act, 1957 — Section 27(3)
Wealth Tax Rules, 1957 — Rule 1BB

Citation : (2002) 124 TAXMAN 483

Hon'ble Judges : Y.R. Meena, J;Shashi Kant Sharma, J

Bench : Full Bench

Advocate : Anuroop Singhi, for the Revenue and J.K. Ranka, for the Assessee, for the Appellant;

Judgement

On an application u/s 27(3) of the Wealth Tax Act, 1957 (hereinafter referred to as ''the Act''), the Tribunal has referred the following question for our opinion :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in directing the Wealth Tax Officer to arrive at the value of the immovable property by applying rule 1BB and further in directing if the value arrived at by applying rule 1BB does not exceed the value as per the books by 20 per cent, then he shall not apply rule 2B(2) in respect of immovable property ?"

2. At the outset, the learned counsel for the assessee, Mr. Ranka, submits that now the issue is covered by the decision of the Hon''ble Apex Court in the case of Commissioner of Wealth Tax, Meerut Vs. Sharvan Kumar Swarup and Sons, wherein their Lordships have taken the view that rule 1BB is procedural and has a retrospective effect. This rule provides the method for valuing a house wholly or mainly used for residential purpose and when choice is given, the value of the property can be ascertained by applying rule IBB of the Wealth Tax Rules, 1957 (hereinafter referred to as ''the Rules''). Mr. Ranka further submits that by applying rule 1BB, the value of the property as per books does not exceed by 20 per cent, therefore, rule 2B(2) has also no application.

3. Considering the submissions, which have not been controverted by the counsel for the revenue, we find no infirmity in the view taken by the Tribunal.

4. In the result, we answer the question in the affirmative, i.e., in favour of the assessee and against the revenue.

5. Reference so made stands disposed of accordingly.