(2005) 01 AHC CK 0021

In the Allahabad High Court

Case No : WT Reference No. 158 of 1990

CWT APPELLANT

Vs

Sidh Gopal Kapoor RESPONDENT

Date of Decision : 10-01-2005

Acts Referred:

Citation : (2006) 155 TAXMAN 598

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

Bench : Division Bench

Judgement

1. The Income Tax Appellate Tribunal, Allahabad, has referred the following questions of law u/s 27(3) of the Wealth Tax Act, 1957 (hereinafter referred to as the Act) for opinion to this Court:

1. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in holding that the valuation of assessees share in the residential property No. 7/24, Tilak Nagar, Kanpur, should be done in accordance with the provisions of Rule 1BB of the Wealth-tax Rules ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in accepting the claim of the assessee for making valuation of the assessees share in the residential property No. 7/24, Tilak Nagar, Kanpur, in accordance with Rule 1BB, despite the fact of the assessee having exercised the option under the provisions of Section 7(1) of the Wealth Tax Act ?"

2. The reference relates to the assessment years 1973-74,1974-75,1976-77 and 1977-78.

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

The respondent-assessee is a Hindu undivided family and owns certain immovable properties. In one of the properties, namely, 7/24, Tilak Nagar, Kanpur, it has half-share, which was occupied by the respondent-assessee and other co-owners for their residence. The valuation as disclosed by the respondent-assessee was not accepted by the Wealth-tax Officer who adopted the valuation as per report of the departmental Valuation Officer. However in appeal, the Appellate Assistant Commissioner has given the benefit of Rule 1BB of the Rules, which has been upheld by the Tribunal.

4. In the case of Commissioner of Wealth Tax, Meerut Vs. Sharvan Kumar Swarup and Sons, , Rule 1BB having been held by the Apex Court to be retrospective in nature, we do not find any infirmity in the order of the Tribunal.

5. In this view of the matter, we answer the questions referred to us in the affirmative, i.e., in favour of the assessee and against the revenue. There shall be no order as to costs.