

(2002) 12 AHC CK 0057

In the Allahabad High Court

Case No : WT Ref. No. 238 of 1987 11 December 2002

CWT

APPELLANT

Vs

Smt. Vibha Agrawal

RESPONDENT

Date of Decision : 11-12-2002

Acts Referred:

Citation : (2003) 130 TAXMAN 592

Hon'ble Judges : Yatindra Singh, J;M. Katju, J

Bench : Full Bench

Advocate : Bharat Ji Agarwal and A.N. Mahajan, for the Revenue R.S. Agarwal, for the Assessee, for the Appellant;

Judgement

Yatindra Singh, J.

Heard Sri R.S. Agarwal for the assessee and Sri Bharat Ji Agarwal and Sri A.N. Mahajan for the department.

2. This is a reference u/s 27(1) of the Wealth Tax Act in which the following question has been referred to us for our opinion :

"Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the order of the Appellate Assistant Commissioner who has directed the Wealth Tax Officer to accept the value of the unquoted equity shares of M/s. Indian Textile Co. (P) Ltd. and M/s. Banaras House Ltd. arrived at by the Chartered Accountant which is based on rule 1D of the Wealth Tax Rules, while in calculating the value of these shares, deductions have been made for liabilities on account of gratuity and tax provision ?"

For the sake of convenience we are refraining the above question into two issues:

"1. Whether, on the facts and in the circumstances of the case the value of the unquoted equity shares of M/s. Indian Textile Co. (P) Ltd. and M/s. Banaras House Ltd. should be arrived in accordance with rule 1D?

2. Whether while calculating the liabilities in accordance with rule 1D the amount of gratuity and tax provision should be deducted?"

3. The questions as reframed by us have also been decided by the Supreme Court in *Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others*, . The Supreme Court has held :

(1) That rule 1D is perfectly valid and effective. The rule has to be followed in every case where unquoted equity shares of a company (other than an investment company or a managing agency company) have to be valued. All the authorities under the Act including the Valuation Officer are bound by the said rule. Rule 1D is mandatory.

(2) While valuing the unquoted equity shares under rule 1D, no deductions on account of capital gains tax which would have been payable in case the said shares were sold on the valuation date can be made. Similarly, no other deductions including provision for taxation, provident fund and gratuity are admissible. Rule 1D is exhaustive on the subject.

In view of the above, we answer the question No. 1 as reframed by us in the affirmative and question No. 2 in the negative, i.e., in favour of the department and against the assessee.