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(1990) 07 AHC CK 0020

In the Allahabad High Court

Case No : Estate Duty Case No. 240 of 1988

Hari Om Prakash APPELLANT

Vs

Controller of Estate Duty RESPONDENT

Date of Decision : 11-07-1990

Acts Referred:
Estate Duty Act, 1953 — Section 64

Citation : (1991) 187 ITR 110 : (1990) 53 TAXMAN 48

Hon'ble Judges : B.P. Jeevan Reddy, C.J;R.A. Sharma, J

Bench : Division Bench

Judgement

B.P. Jeevan Reddy, C.J.—By this application, the accountable person is asking this court to refer as many as five questions u/s 64(3) of the Estate Duty Act, 1953. The questions are :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in ignoring the picas that the deceased had hold the estate left to him in coparcenary capacity and that he was not the owner thereof in his individual capacity ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was right in not considering ground No. 4, specified in the memo of appeal as follows :

Ground No. 4

(i) All the properties, both movable and immovable, possessed and owned by the deceased, were ancestral and ever since till the time of his death the properties belonged to the Hindu undivided family consisting of self and his son. Only half of the total estate passed on his death and that alone was chargeable to estate duty in the present case.

(ii) The learned authorities below misdirected themselves in levying estate duty on the entire estate determined at Rs. 4,67,840 instead of half which comes to Rs. 2,33,920 as per the assessment in the present case."

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(3) Whether, on the facts and in the circumstances of the case, the Tribunal was not bound to follow the procedure as laid down in Section 63(6) of the Estate Duty Act when, in the grounds of appeal, the issue had been specifically raised that the Department should have referred the valuation to another valuer against the approved valuer''s report ?

(4) Was the Tribunal justified in law in ignoring the market value of the land as estimated under the Wealth-tax Act which estimate was nearest to the relevant date ?

(5) Was the Tribunal justified in valuing the orchard treating it as normal agricultural land though no crops were grown thereon ?"

2. So far as questions Nos. 1 and 2 are concerned, they were, as a matter of fact, sought to be raised for the first time before the Tribunal. Since the question whether the properties were ancestral properties in the hands of the deceased or whether they were his separate or self-acquired properties is essentially a question of fact, it could not have been raised for the first time before the Tribunal. The Tribunal was justified in refusing it to be raised. These questions, therefore, cannot be directed to be referred.

3. So far as questions Nos. 3, 4 and 5 are concerned, they pertain to valuation of an agricultural asset. We are inclined to direct the reference of the said questions, but we think it proper to consolidate the three questions into one in the following terms :

"Whether the Tribunal was justified in upholding the valuation of the agricultural land applying the principles contained in the Rules framed by the State Government for the purpose of the Stamp Act and registration of documents ?"

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