(1984) 08 AP CK 0002

In the Andhra Pradesh High Court

Case No : Referred Case No. 281 of 1978

Mohd. Ashraff Khan APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 07-08-1984

Acts Referred:
Wealth Tax Act, 1957 — Section 2(m), 2(m)(ii), 5(1), 5(1)(vi)

Citation : (1985) 20 TAXMAN 160

Hon'ble Judges : G. Ramanujulu Naidu, J;A. Raghuvir, J

Bench : Division Bench

Advocate : T. Shankar Rao, for the Appellant; M.S.N. Murthy, for the Respondent

Judgement

A. Raghuvir, J.—In this reference, the question referred is whether, on the facts and in the circumstances of the case, the loan of Rs. 19,486 taken from the Life Insurance Corporation against the security of life insurance policies of the assessee was deductible in computing the net wealth of the assessee. The question was referred under the Wealth-tax Act, 1957 (''the Act''). The facts disclose that the assessee obtained a loan of Rs 19, 486 on the basis of life insurance policy. He claimed that the loan amount should be deducted from his wealth assets as the loan was secured against the life insurance policy. The WTO and the AAC negatived the claim. The two orders were confirmed by the Tribunal. Thereupon, at the instance of the assessee, the above question is referred to this Court for determination by this Court.

2. The assessee seeks to substantiate the claim from the standpoint of legislative changes made in section 2(m)(ii) of the Act, where the word ''chargeable'' is substituted after the word ''pay able'' is deleted.

3. Before we go into this question, it may be stated that definition of ''net wealth'' u/s 2(m) sets out that a debt which is obtained on the security of an asset which is not included in the wealth is exempted under sub-clause (ii) of section 2(m). Section 5(1)(vi) of the Act reads as follows:

the right or interest of the assessee in any policy of insurance before the'' moneys covered by the policies become due and payable to the assessee:

Provided that...

On a reading of clause (vi) of section 5(1) read with section 2(m)(ii), it is obvious that a life insurance policy is not to be included in the ''net wealth'' of an assessee. If that is so, the loan obtained on a security of life insurance policy for the reason is to not be deducted. It is on this basis that the claim of the assessee has been rejected by the assessing authorities. The learned counsel for the assessee, however, repeated the arguments which were not found in favour with the taxing authorities. The principal submission is with regard to the change in the words where the word ''chargeable'' is now substituted instead of the word ''payable''. Secondly, it is argued that a policy is not excluded in the charging section, therefore, the loan has to be deducted. These two contentions were considered in the decision of the Madras High Court in T.V. Srinivasan Vs. Commissioner of Wealth-tax, . We are in agreement with the reasoning and conclusion reached therein that in the scheme of the Act, there is no significant difference between the words ''chargeable'' and ''payable''. We adopt the reasoning and reject the contention raised in this case. We answer the question in the negative, against the assessee and in favour of the revenue to hold the amount of Rs. 19,486 cannot be deducted. No costs.