(1983) 09 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 112 of 1981

M.V. Kibe APPELLANT

Vs

Commissioner of Wealth Tax RESPONDENT

Date of Decision : 09-09-1983

Acts Referred:
Wealth Tax Act, 1957 — Section 16A, 17(1), 27(1), 27(3)

Citation : (1984) 150 ITR 488 : (1985) 22 TAXMAN 216

Hon'ble Judges : R.K. Vijayvargiya, J;G.G.Sohani, J

Bench : Division Bench

Advocate : Chaphekar and Chitale, for the Appellant; R.C. Mukati, for the Respondent

Judgement

Sohani, J.—This is an application u/s 27(3) of the W.T. Act, 1957 (hereinafter referred to as "the Act").

2. The material facts giving rise to this application briefly are as follows :

The applicant is a HUF and the assessment years in question are from 1967-68 to 1973-74. Reassessment proceedings were initiated against the applicant by the WTO. The assessee objected to those proceedings but the objections were overruled and the assessee was reassessed. The assessee preferred appeals before the AAC who set aside the assessment orders with a direction that the matter should be referred to the Valuation Officer u/s 16A of the Act. On appeals before the Tribunal, two contentions were raised on behalf of the assessee : (1) that the WTO had no jurisdiction to reopen the assessments, and (2) that the AAC had no jurisdiction to direct the WTO to refer the matter to the Valuation Cell. These contentions were not upheld by the Tribunal which dismissed the appeals. The application u/s 27(1) of the Act filed by the assessee was rejected by the Tribunal. Hence, the assessee has filed this application.

3. Having heard the learned counsel for the parties, we have come to the conclusion that the following questions of law do arise out of the order passed by

the Tribunal :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that reopening of the assessments u/s 17(1)(a) of the Act was justified ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the Appellate Assistant Commissioner had jurisdiction to direct the Wealth-tax Officer to refer the matter to the Valuation Cell as provided by Section 16A of the Act ? "

4. The application is, therefore, allowed. The Tribunal is directed to state the case and to refer the aforesaid questions of law to this court for its opinion. In the circumstances of the case, parties shall bear their own costs of this application.