(1983) 01 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 88 of 1981

Raj Kumar Singh Kasliwal APPELLANT

Vs

Commissioner of Wealth-tax RESPONDENT

Date of Decision : 12-01-1983

Acts Referred:
Wealth Tax Act, 1957 — Section 2(m), 27(1)

Citation : (1983) 37 CTR 248 : (1983) 143 ITR 597

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

Bench : Division Bench

Advocate : A.K. Chitale, for the Appellant; R.C. Mukati, for the Respondent

Judgement

Sohani, J.—By this reference u/s 27(1) of the W.T. Act, 1957 (hereinafter referred to as "the Act"), the Income Tax Appellate Tribunal, Indore Bench, has referred the following question of law to this court for its opinion:

" Whether, on the facts and circumstances of the case, the loan raised on the security of life insurance policies, hut admittedly incurred in relation to the acquiring of the taxable assets, was to be deducted in arriving at the net wealth of the assessee for purposes of the Wealth-tax Act ? "

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

3. The assessee is assessed in the status of an individual. During the assessment years in question, the assessee obtained loans from the Life Insurance Corporation on the basis of the paid-up value of the insurance policies held by the assessee. The assessee claimed deduction of the said loans from his wealth. The WTO disallowed the claim on the ground that the deductions were not admissible as the loans were secured on the life insurance policies, which were not chargeable to tax within the meaning of Section 2(m) of the Act. The appeals preferred by the assessee were allowed by the Commissioner of Wealth-tax (Appeals). Aggrieved by the orders passed by the Commissioner (Appeals), the Department preferred appeals before the Tribunal. The Tribunal held that the

Commissioner (Appeals) erred in directing the WTO to allow debts secured on life insurance policies held by the assessee as deductions. In this view of the matter, the Tribunal allowed the appeals. Aggrieved by that order, the assessee sought a reference and it is at the instance of the assessee that the aforesaid question of law has been referred to this court for its opinion. Learned counsel for the parties conceded that the matter arising in this reference is covered by two decisions of this court in CWT v. Premnarayan Garg [1982] 134 ITR 315 and Commissioner of Wealth-tax Vs. Narayandas J. Hemani,). In these decisions, it has been held that a loan secured on the life insurance policy could not be deducted as a debt while computing the net wealth. We respectfully agree with these decisions.

4. For these reasons, our answer to the question referred to us is in the negative and against the assessee. In the circumstances of the case, parties shall bear their own costs of this reference.