(1972) 02 AHC CK 0046

In the Allahabad High Court

Case No : Wealth-tax Reference No. 399 of 1969

Suraj Prasad Agarwal APPELLANT

Vs

Commissioner of Wealth Tax RESPONDENT

Date of Decision : 16-02-1972

Acts Referred:

Citation : (1973) 90 ITR 417

Hon'ble Judges : R.S. Pathak, J;Hari Swarup, J

Bench : Division Bench

Advocate : R.K. Gulati, for the Appellant; R.R. Misra, for the Respondent

Final Decision : Dismissed

Judgement

Pathak, J.—The Income Tax Appellate Tribunal has referred the following question for the opinion of this court.

" Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee, his wife and minor daughter did not constitute a Hindu undivided family in law ?"

2. The assessee is an individual. For the assessment years 1964-65 and 1965-66, the Wealth-tax Officer determined the total wealth of the assessee. The assessee contended that some of the assets included in the wealth of the assessee did not belong to him but to the Hindu undivided family consisting of himself, his wife and minor daughter. The plea being rejected by the Income Tax Officer, the assessee appealed to the Appellate Assistant Commissioner but his appeal was dismissed. The assessee appealed to the Income Tax Appellate Tribunal and that appeal was dismissed.

3. It seems to us that the question referred is now concluded by the decision of the Supreme Court in N.V. Narendranath Vs. Commissioner of Wealth-tax, Andhra Pradesh, . In that case the Supreme Court held that it was not necessary that there should be at least two male members to form a Hindu ''undivided

family as a taxable unit for the purpose of the Wealth-tax Act. It was sufficient that a family should consist of a single male member, his wife and daughter in order to constitute a Hindu undivided family.

4. The question referred must therefore be answered in the negative in favour of the assessee and against the department. In the circumstances, there is no order as to costs. Counsel''s fee is assessed at Rs. 200.

