(1998) 01 MAD CK 0046

In the Madras High Court

Case No : Tax Case No''s. 661 and 662 of 1983 (Reference No''s. 362 and 363 of 1983)

T. Raghuraman APPELLANT

Vs

Commissioner of Wealth-tax RESPONDENT

Date of Decision : 28-01-1998

Acts Referred:
Wealth Tax Act, 1957 — Section 5(1)

Citation : (2000) 243 ITR 185

Hon'ble Judges : N.V. Balasubramanian, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : P.P.S. Janarthana Raja, for the Appellant; C.V. Rajan, for the Respondent

Judgement

N. V. Balasubramanian, J.—In the above two tax cases one is at the instance of the assessee and another is at the instance of the

Department.

2. At the instance of the assessee, the Tribunal has referred the following question of law u/s 27(1) of the Wealth-tax Act, 1957, for our

consideration :

Whether, on the facts and in the circumstances of the case, the entire coffee and tea bushes fall within the expression ''growing crops'' in Section

5(I)(viiia) of the Act ?

3. At the instance of the Department, the following question of law has been referred by the Tribunal u/s 27(1) of the Wealth-tax Act, 1957, for

our consideration :

Whether, on the facts and in the circumstances of the case in computing the net wealth of a firm under rule 2 of the Wealth-tax Rules, assets exempt u/s 5 should be excluded or whether such assets also should be included therein and then apportioned among the partners for granting

exemption in their individual assessments after computing their own individual net wealth ?

4. So far as the question of law referred at the instance of the assessee is concerned, it is fairly submitted that the issue raised in the question of law

is covered against the assessee by the decisions of this court in M. Rangaswamy Vs. Commissioner of Wealth-tax, and R.M. Perianna Pillai

(Deceased) (by Legal Representatives) Vs. Commissioner of Wealth-tax, , wherein this court held that the entire coffee and tea bushes, apart from

the two leaves and a bud of the tea bush and the berries of the coffee bush, do not fall within the expression ""growing crops"" for exemption u/s 5(l)

(viiia) of the Wealth-tax Act, 1957. Following the decisions of this court in M. Rangaswamy Vs. Commissioner of Wealth-tax, as well as R.M.

Perianna Pillai (Deceased) (by Legal Representatives) Vs. Commissioner of Wealth-tax, , the question of law referred at the instance of the

assessee is answered in the negative and against the assessee.

5. So far as the question of law referred at the instance of the Department is concerned, we are of the view that the question of law referred to us

does not reflect the real controversy between the parties and we reframe the question as under :

Whether, on the facts and in the circumstances of the case, the Tribunal is justified in holding that the deduction u/s 5(l)(iva) of the Wealth-tax Act

is to be allowed in the hands of the assessee who is a partner in the firm which owns agricultural lands ?

6. A similar question of law came up for consideration before this court in R. Venkatavaradha Reddiar Vs. Commissioner of Income Tax, ,

wherein this court held that the assesses, a partner, is entitled to the exemption by way of deduction u/s 5(1)(iva) of the Wealth-tax Act in respect

of his share in the agricultural lands held by the firm in which the assessee is a partner, while computing the net wealth of the assessee. Following

the decision of this court in R. Venkatavaradha Reddiar Vs. Commissioner of Income Tax, , we answer the question of law as reframed by us in

the affirmative and against the Department.

7. Accordingly, we answer both the questions of law referred to us in both the

tax cases in the manner indicated above. However, in the circumstances of the case there will be no order as to costs.

