(1997) 03 AHC CK 0169

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 1093 of 1983

VINAI SINGH APPELLANT

Vs

ASSISTANT VALUATION OFFICER and Another RESPONDENT

Date of Decision : 06-03-1997

Acts Referred:

Citation : (1997) 143 CTR 124

Final Decision : Allowed

Judgement

1. Heard Sri Kumar Saxena, Advocate, for the petitioner and Sri Ashok Kumar, standing counsel, for the Respondents.

2. The petitioner seeks a writ of certiorari quashing the notice dt. 6th September, 1983 issued by respondent No. 1 Asstt. Valuation Officer (Annexure 2) as well as the reference order under s. 16A(1) of the WT Act dt. 4th February, 1983 of respondent No. 2 WTO, Saharanpur.

3. The case of the petitioner is that reference by the WTO to the Asstt. Valuation Officer under s. 16A(1) of the WT Act is without jurisdiction, since no assessment proceedings under the WT Act for any of the assessment years were pending on the date the reference was made. The relevant allegation has been made in paragraph No. 13 of the petition. The respondents have not filed any counter-affidavit to contradict this allegation. As such we have to proceed as if no assessment proceedings were pending under the WT Act when the reference under s. 16A(1) of the Act was made by respondent No. 2. The plea of the petitioner gets support from the case of V. K. JAIN Vs. WEALTH-TAX OFFICER AND ANOTHER., , where it was held that a reading of sub-s. (1) of s. 16A of the WT Act, 1957, shows that a reference to the Valuation Officer can be made only for the purpose of making an assessment and once there is no assessment proceedings pending before the WTO, there is no power to make such a reference. We are in respectful agreement with this authority.

4. We accordingly, allow the writ petition and quash the notice dt. 6th

September, 1983 of respondent No. 1 (Annexure 2) as well as the reference order under s. 16A(1) of the WT Act dt. 4th February, 1983 by respondent No. 2 to respondent No. 1.

