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Controller of Estate Duty Vs. A.D. Kanabar and G.D. Kanabar

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Court : Mumbai

Decided On : Mar-17-1990

Reported in : [1991]190ITR552(Bom)

Judge : Sujata V. Manohar and;T.D. Sugla, JJ.

Acts : ED Act, 1953

Appeal No. : Estate Duty Reference No. 20 of 1976

Appellant : Controller of Estate Duty

Respondent : A.D. Kanabar and G.D. Kanabar

Advocate for Pet/Ap. : G.S. Jetley, Adv.

Judgement :

T.D. Sugla J.

1. The only question referred to this court in this reference at the instance of the Department is as under :

'Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that in the computation of the principal value of the estate of the deceased, the estate duty payable in respect of the estate of the deceased should be deducted ?'

2. The respondent has been served but he has chosen to rely on the judgment of the Tribunal mentioned in the letter addressed to the Department's counsel and also on the judgment of the Mysore High Court reported in Mrs. Blanche Nathalia Pinto v. State of Mysore (1964) 53 ITR 64.

3. Mr. Jetley, learned counsel for the Department, points out that the issue involved herein is covered by out judgment delivered in Estate Duty References Nos. 21 and 30 of 1976 on July 5, 1990 CED v. Bipinchandra N. Patal : [1990]186ITR29(Bom) in favour of the Revenue and against the accountable person. He also points out that the judgment of the Mysore High Court and other judgments relied upon by the accountable person in his letter have been considered by this court.

4. Following out judgment in CED v. Bipinchandra N. Patel : [1990]186ITR29(Bom) , we hold that the estate duty payable in respect of the estate of the deceased is not deductible for the purpose of computing the principal value of the estate of the deceased.

5. Accordingly, the question is answered in the negative and in favour of the Revenue.

6. No order as to costs.

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