

Ram Prasad Agarwal Vs. Controller of Estate Duty and anr.

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Court : Allahabad

Decided On : Nov-08-1990

Reported in : [1991]190ITR613(All)

Judge : B.P. Jeevan Reddy, C.J. and ;V.N. Mehrotra, J.

Acts : [Estate Duty Act, 1953](#) - Sections 50A

Appeal No. : Civil Miscellaneous Writ Petition No. 693 of 1987

Appellant : Ram Prasad Agarwal

Respondent : Controller of Estate Duty and anr.

Judgement :

B.P. Jeevan Reddy, C.J.

1. In respect of the estate left by Shiv Prasad Agarwal, the petitioner, the accountable person, filed a return. A provisional assessment was first made whereunder duty in a sum of Rs. 26,210 is said to have been held payable. Subsequently, regular assessment was made on March 31, 1984, whereunder a demand of Rs. 27,910 was raised.

2. The first fact which is not clear from the record placed before us is whether the sum of Rs. 27,910 includes Rs. 26,210 held payable under the provisional assessment order or whether this is over and above the said amount. This aspect

may first be looked into and determined by the Estate Duty Officer (the Officer now performing those duties) with notice to the petitioner.

3. The petitioner further says that he has paid a sum of Rs. 36,500 by way of gift-tax upon the said deceased gifting property and whose value has been included in his estate. He says that the petitioner is entitled to deduct the said gift-tax amount paid by him from out of the estate duty payable by him. This is the second aspect which has to be gone into and decided by the Estate Duty Officer. It is evident that if the petitioner has indeed paid the gift-tax, he is entitled to its deduction by virtue of Section 50A of the Estate Duty Act.

4. Both these questions may be looked into and determined by the Estate Duty Officer after notice to the accountable person.

5. The orders in this behalf shall be passed within three months from the date of presentation of a certified copy of this order before him by the petitioner.

6. The writ petition is disposed of with the above directions. No costs.