

Dilip Bhargava Vs. Assistant Controller of Estate Duty and ors.

Dilip Bhargava Vs. Assistant Controller of Estate Duty and ors.

SooperKanoon Citation : sooperkanoon.com/457154

Court : Allahabad

Decided On : Oct-25-1990

Reported in : [1991]190ITR621(All)

Judge : B.P. Jeevan Reddy, C.J. and ;G.D. Dubey, J.

Acts : [Estate Duty Act, 1953](#); [Constitution of India](#) - Article 226

Appeal No. : Civil Miscellaneous Writ Petition No. 102 of 1980

Appellant : Dilip Bhargava

Respondent : Assistant Controller of Estate Duty and ors.

Judgement :

B.P. Jeevan Reddy, C.J.

1. The petitioner filed a return as an accountable person under the provisions of the Estate Duty Act with respect to the estate of his father, who died on June 25, 1979. Provisional assessment was made according to which duty of Rs. 44,192 was due from the petitioner, Since it was not paid within the time prescribed, proceedings for recovering the same were taken. Be that as it may, the fact remains that the petitioner did pay the entire amount on February 2, 1980, and requested that the certificate of recovery issued against him be cancelled. The petitioner says that, in spite of his paying the entire amount, the Collector is proceeding ahead with recovery proceedings in pursuance of the recovery

certificate sent to him.

2. In the counter-affidavit filed by the Estate Duty Department, it is admitted that the petitioner had paid up the entire duty due from him, as alleged by him in the writ petition. It also appears that this fact was communicated by the Estate Duty Department to the Collector, Kanpur, through letter dated February 7, 1980. If so, we fail to understand how the recovery proceedings can still be continued against the petitioner.

3. Learned standing counsel for the Government says that the petitioner has also got to pay the recovery charges. In this case, it would be seen that the tax recovery certificate itself is dated January 22, 1980, and the petitioner paid the entire duty on February 2, 1980. Whether, in such circumstances, any recovery charges are leviable is doubtful, particularly when the notice of demand in pursuance of the recovery certificate itself appears to have been issued on March 10, 1980. Be that as it may, that is not in issue before us. If any separate notice for collection charges is issued, it shall be open to the petitioner to dispute the same or question the same according to law.

4. The writ petition is, accordingly, allowed. No costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com