

Behari Lal Agarwal Vs. Assistant Controller of Estate Duty-cum-income-tax

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Court : Allahabad

Decided On : Jan-31-1991

Reported in : [1991]192ITR267(All)

Judge : B.P. Jeevan Reddy, C.J. and ;R.A. Sharma, J.

Acts : [Estate Duty Act, 1953](#) - Sections 59

Appeal No. : Civil Miscellaneous Writ Petition No. 688 of 1980

Appellant : Behari Lal Agarwal

Respondent : Assistant Controller of Estate Duty-cum-income-tax

Judgement :

B.P. Jeevan Reddy, C.J.

1. This writ petition is directed against, a notice issued under Section 59 of the [Estate Duty Act, 1953](#), proposing to reopen the assessment. The notice, of course, is in the prescribed pro forma and does not disclose any reasons.

2. The petitioner's case is that he had made a full and proper disclosure of all the relevant facts and that an assessment was made on that basis. He also filed an appeal though unsuccessful. The grievance of the petitioner is that, after several years, the matter is sought to be reopened without there being any proper ground or material warranting such reopening.

3. This writ petition was entertained and the respondents were called upon to file a counter. They have filed a counter-affidavit. We have perused the same.

4. We find that there is neither any allegation that there was any failure to disclose the facts or suppression of material facts nor is there any allegation that the authorities received some information on the basis of which they formed the opinion that property chargeable to estate duty has escaped assessment or was under-assessed. Indeed, the counter-affidavit says in paragraph 7 that 'the reason for issuing the notice under Section 59 was mentioned in the said notice specifically', when the notice does not contain any such reasons and, as stated above, is in the prescribed pro forma only. All this shows that the notice has been issued mechanically and without there being relevant material giving rise to a reasonable belief in the authority. The impugned notice must, accordingly, be held to be bad and is quashed herewith.

5. The writ petition is allowed accordingly. No costs.