Shakti Sikand Vs. Cit

Shakti Sikand Vs. Cit

SooperKanoon Citation : sooperkanoon.com/707804

Court : Delhi

Decided On : Feb-20-2003

Reported in : [2004]136TAXMAN276(Delhi)

Appellant : Shakti Sikand

Respondent : Cit

Advocate for Pet/Ap. : R.C. Pandey,;for the Responden

Judgement :
ORDER

D.K. Jain, J.

The case has been listed before the court for appropriate orders, as the assessed, at whose instance the reference has been made, has failed to file the paper books despite various opportunities, However, since answer to the questions referred for our opinion stands concluded by the decision of the Apex Court, we dispense with the filing of the paper books and proceed to answer the reference.

2. The following questions have been referred by the Income Tax Appellate Tribunal, New Delhi for our opinion :

'1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that rule 1BB was not mandatory the vis-a-vis Valuation

Officer.

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the values of the two residential properties namely, Kautilya Marg and 8, Curzon Road should be adopted as valued by the departmental Valuer ?'

3. Since the issue involved is purely legal, we deem it unnecessary to state the facts. Suffice it to note that the issue raised is as to whether Rule 1BB of the Wealth Tax Rules, 1958 would apply to assessment proceedings pertaining to the assessment year 1979-80 onwards or also to those assessment years in respect of which assessment proceedings were pending on 1-4-1979 when the said rule came into force.

4. The same issue came up for consideration of the Apex Court in CWT v. Sharvan Kumar Swarup & Sons : 1995ECR425(SC) , wherein their Lordships of the Supreme Court have pleased to hold that rule 1BB partakes of the character of a rule of evidence. It deems the market value to be the one arrived at on the application of a particular method of valuation which is also one of the recognised and accepted methods. The rule is procedural and not substantive and is, thereforee, applicable to all proceedings pending on 1-4-1979, when the rule came into force.

5. In view of the said authoritative pronouncement, both the questions are answered in the negative i.e., in favor of the assessed and against the revenue.

The reference stands disposed with no order as to costs.