

Controller of Estate Duty Vs. Mani Raj and Others

Controller of Estate Duty Vs. Mani Raj and Others

SooperKanoon Citation : sooperkanoon.com/792020

Court : Chennai

Decided On : Mar-28-1990

Reported in : [1990]186ITR558(Mad)

Judge : T. Somasundaram and ;V. Ratnam, JJ.

Acts : [Estate Duty Act, 1953](#) - Sections 2(15), 10, 27 and 34(1)

Appeal No. : Tax Case No. 50 of 1980 (Reference No. 50 of 1980)

Appellant : Controller of Estate Duty

Respondent : Mani Raj and Others

Advocate for Def. : Mrs. Chitra Venkataraman, Adv.

Advocate for Pet/Ap. : C.V. Rajan, Adv.

Judgement :

Ratnam, J.

1. In this reference under section 64(1) of the [Estate Duty Act, 1953](#), at the instance of the Controller of Estate Duty, the following three questions of law have been referred to this court for its opinion :

'(1) Whether, on the facts and in the circumstances of the case, the value of the properties admitted by the accountable person in annexure 'F' of the estate duty

account could not be included in the principal value of the deceased's estate in terms of section 10 read with section 27 of the Estate Duty Act

(2) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the throwing of personal property by a coparcener into the common hotchpot of the family would not amount to a 'disposition' within the meaning of Explanation 2 to section 2(15) of the Estate Duty Act

(3) Without prejudice to questions Nos. (1) and (2) above, whether the Appellate Tribunal was right in holding that the lineal descendants' share in the aforesaid properties cannot be aggregated under section 34(1)(c) for rate purposes ?'

2. In so far as questions Nos. 1 and 2 are concerned, the decision of this court in Tax Case No. 580 of 1977 dated November 12, 1981 is against the Revenue. In view of that, questions Nos. 1 and 2 have to be answered in the affirmative and against the Revenue.

3. In so far as the third question is concerned, section 34(1)(c) of the Estate Duty Act had been struck down as being violative of article 14 of the Constitution of India in the decision reported in *V. Devaki Ammal v. Asst. CED* : [1973]91ITR24(Mad) . Under those circumstances, the Tribunal was quite right in holding that there cannot be an aggregation under that section. We, therefore, answer the third question also in the affirmative and against the Revenue. There will be no order as to costs.