

H IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4385 OF 2006

J.K. Srivastava (deceased) through LRs. ...Appellant(s)

Versus

Commnr. of Wealth Tax, Kanpur, U.P. ...Respondent(s)

W I T H

CIVIL APPEALS NO.4380, 4381, 4384 & 4383 OF 2006

O R D E R

Heard learned counsel for the parties at length.

In the case of Jogeshwar Narain Dev Vs. Ram Chandra Dutt, reported in (1896) 23 Indian Appeals 37, the Privy Council has held that the principle of joint tenancy is unknown to Hindu Law except in the case of coparcenary between the members of an undivided family.

Rule 2 of the Wealth Tax Rules, as it stood at the material time, dealt with valuation of interest in partnership or Association of Persons (AoP). It stated

that in the absence of agreement, the residue of the net wealth shall be allocated amongst the members of AoP in the proportion in which they are entitled to share profits. The argument of the appellant(s) before us was that the share of the deceased was indeterminate in the profits and, consequently, it was not open to the

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Department to include the share of fifty per cent in the net wealth of the appellant under the Wealth Tax Act, 1957, as it then stood.

In view of the judgment of the Privy Council, on facts it was open to the Department to impute 50% rule and hold that the assessee was entitled to share equal profits with his son (grandson of the original donor).

Before concluding, it may be mentioned that

Judgments relied upon by the assessee have no application as those Judgments have not considered Rule 2(1) in entirety, particularly the words "in the absence of an agreement, in the proportion in which members are entitled to share profits".

We find no infirmity in the impugned judgment and, accordingly, the Civil Appeals filed by the assessee(s) are dismissed with no order as to costs.

.....J.
(S.H. KAPADIA)

.....J.
(H.L. DATTU)

New Delhi,
December 08, 2009.
ITEM NO.101

COURT NO.2

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 4380 OF 2006

V.K.SRIVASTAVA

Appellant (s)

VERSUS

COMMNR. WEALTH TAX, KANPUR, U.P.

Respondent(s)

WITH

Civil Appeal Nos 4381, 4385, 4384 & 4383 of 2006
(With office report)

Date: 08/12/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s)

Ms. Tasneem Ahmadi, Adv.
Mr. Sudhir Kumar Gupta, Adv.
Mr. Manish Gupta, Adv.
Ms. Sharifa Chaudary, Adv.

For Respondent(s)

Mr. B. Bhattacharya, ASG.
Mr. Preetesh Kapur, Adv.
Mr. B.V.B. Das, Adv.

UPON hearing counsel the Court made the following
O R D E R

Civil Appeals filed by the assessee(s) are dismissed in terms of the signed order. No order as to costs.

(N. ANNAPURNA)
COURT MASTER

(MADHU SAXENA)
COURT MASTER

(Signed order is placed on the file)