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(1980) 02 MP CK 0003

Madhya Pradesh High Court

Case No: Miscellaneous Civil Case No. 337 of 1976

Karan Singh Puar	APPELLANT
Vs	
Commissioner of Wealth Tax	RESPONDENT

Date of Decision: Feb. 23, 1980

Acts Referred:

- Wealth Tax Act, 1957 - Section 27

Citation: (1980) 4 TAXMAN 38

Hon'ble Judges: R.K. Vijayvargiya, J; G.G. Sohani, J

Bench: Division Bench

Judgement

R.K. Vijayvargiya, J.
By this reference u/s 27 of the Wealth-tax Act, the Appellate Tribunal, Indore Bench, Indore, has referred the following question of law for the opinion of this court:

Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding the status of the applicant as an individual for computation of wealth-tax of the applicant on the share of property received by him on partition of his original HUF property on December 28, 1962?

The facts giving rise to this reference as set out in the statement of the case are as follows: The assessee, Karansingh Puar, is a minor son of Shri Jagdeo Rao Pawar. The return of wealth on behalf of the assessee for the assessment year 1970-71 was filed by his mother declaring his net wealth at Rs. 2,64,000. The assessee claimed the status of an HUF. The assessee contended that the property was received by him as a result of the partition which took place in December, 1962. The property admittedly belonged to the HUF consisting of the assessee and his parents. The assessee contended that as the property originally belonged to the HUF, it retained its character of being the property of an HUF in the hands of the assessee even after the partition of the property and the fact that the assessee was a minor and did not have his own family, did not make any

difference. This contention of the assessee was not accepted by WTO who computed the wealth of the assessee in his status as an individual. The order of the WTO was maintained in appeal by the AAC and in second appeal by the Appellate Tribunal. At the instance of the assessee, the Appellate Tribunal has referred the aforesaid question of law arising out of the order of the Tribunal for the opinion of this court.

2. The assessee did not put in appearance at the hearing of the reference. We have heard the learned counsel for the department. It is not in dispute that when the assessee received the property in partition he was a minor and that he continued to be a minor in the assessment year also and further that he had no family of his own. In the circumstances, it is difficult to appreciate the contention of the assessee that the property received by him on partition retained the character of the joint family property in his hands also, even though he did not constitute a joint Hindu family. The character of the property is determined according to the status of the person who holds the same. We are of the opinion that, on the facts and circumstances of the case, the Appellate Tribunal was fully justified in holding that the status of the assessee during the assessment year was that of an individual and not of an HUF as contended by the assessee. As a result of the discussion aforesaid, our answer to the question referred to us is in the affirmative and against the assessee. In the circumstances of the case, there shall be no order as to costs of this reference.