

Controller of Estate Duty Vs Gangabishan Champalal Bajaj and Another

Court: Bombay High Court

Date of Decision: Oct. 19, 1992

Acts Referred: Estate Duty Act, 1953 & Section 73, 73A

Citation: (1995) 214 ITR 348

Hon'ble Judges: V.A. Mohta, J; B.P. Saraf, J

Bench: Division Bench

Advocate: C.J. Thakar, P.M. Chandurkar, for the Appellant;

Judgement

V.A. Mohta, J.

At the instance of the Controller of Estate Duty, Nagpur, the following questions have been referred u/s 64 of the Estate

Duty Act, 1953 :

(i) Whether the Tribunal was justified in taking the view that the order of assessment passed by the Assistant Controller of Estate Duty in respect

of the estate of the deceased, Mathuradas Gulabchand Bajaj, was barred by limitation on April 29, 1972, u/s 73A of the Act ?

(ii) Whether, in the facts and circumstances of the case, the Tribunal was justified in upholding the order of the Appellate Controller cancelling the

assessment made by the Assistant Controller of Estate Duty ?

2. The late Shri Mathuradas Bajaj died on July 23, 1961. His sons voluntarily filed an estate duty account on October 25, 1971, i.e., after more

than ten years of the death. Assessment was completed by the Assistant Controller of Estate Duty on April 29, 1973. The Appellate Controller

cancelled the assessment as time-barred u/s 73A of the Estate Duty Act. The said order was maintained by the Tribunal.

3. The provisions of section 73A are quite clear. Initiation can be either by a notice or by filing a return. Neither of the two has taken place within

five years of the death of the deceased.

4. Under the circumstances, both the questions are answered in the affirmative and in favour of the accountable person. No order as to costs.