

**SUPREME COURT OF INDIA**

Commissioner of Wealth-Tax

Vs.

Hari Shankar

(S.P. Bharucha, N. S. Hegde and Y.K. Sabharwal JJ.)

07.12.2000

**ORDER**

1. The Revenue sought for reference of the following question:

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the market value of the assessee's right in the property at Hailey Road, New Delhi, was not Rs. 8.00.000 as assessed by the Wealth-tax Officer on the basis of the report from the Valuation Officer?"

2. The High Court declined to call for the reference.

3. From the order of the Tribunal it appears that it had relied upon the judgment of the Calcutta High Court in CIT v. Ashima Sinha [1976] 116 ITR 26, to hold that the potential value of the land could not be added in assessing its value. Clearly, a question of law arises which requires the consideration of the High Court.

4. It will be open to the assessee to contend, as has been done before us, that the valuation should be arrived at by employing the provisions of rule 1BB of the Wealth-tax Rules, 1957, and the High Court shall take this contention into account when answering the question on its merits.

5. The appeals are allowed. The orders under appeal are set aside. The Tribunal shall refer to the High Court the question quoted above, after drawing up a statement of case. No order as to costs.