

for the grant of liberty to them. In view of what has emerged from the evidence of Dr. Mahajan in this Court and the valuable report of Dr. Berry it is patent that respondent Ajit Singh is indeed very far from being a sick or infirm person who could claim to be released on those exceptional grounds. The grant of bail to him is a patently erroneous exercise of discretion and is one which is wholly unsustainable. I would accordingly cancel the bail granted to respondent Ajit Singh and direct that he be taken into custody forthwith.

N.K.S.

ESTATE DUTY REFERENCE

*Before Prem Chand Pandit and Gopal Singh, JJ.*

VIRPAUL KAUR,—Appellant

*versus*

THE CONTROLLER OF ESTATE DUTY,—Respondent

**Estate Duty Reference No. 1 of 1967.**

July 12, 1971.

*The Estate Duty Act (XXXIV of 1953)—Sections 5, 34, 35 and First Schedule—Deceased leaving property both agricultural and non-agricultural—Agricultural property exempt from estate duty being situate in a State not mentioned in the First Schedule—Such property—Whether to be included in determining the principal value of the estate for fixing the rate of estate duty.*

*Held*, that under section 4 of the Estate Duty Act, 1953, the estate duty is levied on the principal value of all the properties left by the deceased, including agricultural land situate in the states specified in the First Schedule to the Act at the rates fixed in accordance with section 35. The agricultural land situated in the State not mentioned in the First Schedule will not be included for the purpose of levying duty on the estate of the deceased. But the rate at which the said duty is leviable would be arrived at after including such agricultural lands. They are included for the determination of the principal value of the estate of the deceased and on that basis the rate of estate duty would be fixed.

(Paras 4, 5 and 9)

Virpaul Kaur v. The Controller of Estate Duty (Pandit, J.)

Reference under Section 64(1) of the Estate Duty Act, 1953 made by the Estate Duty Act, Appellate Tribunal (Delhi Bench),—vide his order dated 4th January, 1967 for opinion of this Court on the following question of law in a case R. A. No. (Pb./64 of 1960).

*“Whether, on the facts and in the circumstances of the case, the Board was right in holding that estate duty was payable on the death of the deceased under the provisions of the Estate Duty Act, 1953, on the value of non-agricultural property at the rate applicable to the principal value of the estate which would include the value of agricultural land in ‘Pepsu’ which was not liable to duty but was liable to inclusion in the value of the estate.”*

J. V. GUPTA, ADVOCATE, for the applicant.

D. N. AWASTHY AND B. S. GUPTA, ADVOCATES, for the respondent.

JUDGMENT

The Judgment of this Court was delivered by:—

PANDIT, J.—The following question of law has been referred to us for opinion under section 64(1) of the Estate Duty Act, 1953, hereinafter called the Act:—

*“Whether, on the facts and in the circumstances of the case, the Board was right in holding that estate duty was payable on the death of the deceased under the provisions of the Estate Duty Act, 1953, on the value of non-agricultural property at the rate applicable to the principal value of the estate which would include the value of agricultural land in ‘Pepsu’ which was not liable to duty but was liable to inclusion in the value of the estate.”*

(2) It has arisen in the following circumstances. Col. Raghbir Singh died on 7th January, 1953, leaving property, both agricultural and non-agricultural. On his death, his widow Shrimati Virpaul Kaur furnished an account of that property to the Assistant Controller of Estate Duty, Patiala. The agricultural property was situated in the former State of Pepsu and the same was exempt from estate duty at the time of the death of the deceased. The Deputy Controller of Estate Duty, who completed the assessment, determined the net principal value of the estate of the deceased at Rs. 10,63,217 and

this amount included the value of the agricultural lands, which was Rs. 9,44,060. The assessee filed an appeal before the Central Board of Revenue and objected to the valuation of property made by the Deputy Controller. It was also said that the value of the non-agricultural property did not exceed rupees one lakh and, therefore, no duty was leviable thereon. The Board remanded the case to the Deputy Controller for making further enquiries regarding the disputed question of valuation of the various properties. After the report was received, the Board allowed some reductions in respect of the valuation made by the Deputy Controller, with the result that the principal value of the estate of the deceased was reduced to Rs. 9,79,486 and the value of the agricultural lands comprised therein was reduced to Rs. 8,73,820. The Board overruled the other contention of the assessee to the effect that no duty was leviable under section 35 read with Second Schedule to the Act, because the estate of the deceased consisted of two types of properties, one on which estate duty was leviable and the other, namely, agricultural land, which was exempt from the payment of the estate duty and the value of the former was less than rupees one lakh. It held that under section 34(1) of the Act, all properties passing on death, including exempted agricultural lands in the Pepsu State, had to be aggregated in the first place for determining the principal value of the estate and the rate of duty appropriate thereto. When that was done, the principal value exceeded rupees one lakh and there was, therefore, a definite rate of duty applicable to the estate of the deceased. The duty was, however, to be levied on the dutiable portion of the estate, the rest being exempt, but at the rate applicable to the aggregate estate.

(3) The charging section in the Act is section 5, the relevant portion of which reads:

*“Levy of estate duty.—(1) In the case of every person dying after the commencement of this Act, there shall, save as hereinafter expressly provided, be levied and paid upon the principal value ascertained as hereinafter provided of all property, settled or not settled, including agricultural land situate in the States specified, in the First Schedule to this Act, which passes on the death of such person, a*

## Virpaul Kaur v. The Controller of Estate Duty (Pandit, J.)

duty called "estate duty" at the rates fixed in accordance with section 35.

\* \* \* \* \*

(4) Under this section, the estate duty is levied on the principal value of all the properties left by the deceased, including agricultural land situate in the States specified in the First Schedule to the Act, at the rates fixed in accordance with section 35.

(5) It may be mentioned that the Pepsu State does not find mention in the First Schedule to the Act. That being so, the agricultural land situated in that State will not be included for the purpose of levying duty on the estate of the deceased.

(6) Section 34 deals with the determination of the *rate* of estate duty. The portion of this section, with which we are concerned, says—

34. "Aggregation.—(1) For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing, excluding—

\* \* \* \* \*

"But including—

(i) \* \* \* \*

(ii) \* \* \* \*

(iii) agricultural land situate in any State not specified in the First Schedule, shall be aggregated so as to form one estate and the duty shall be levied at the rate or rates applicable in respect of the principal value thereof:

\* \* \* \* \*

(7) This section, as I have already mentioned, comes into play for fixing the rate of estate duty, and, for that purpose, agricultural

lands situate in Pepsu and belonging to the deceased will be included.

(8) Then comes section 35, which concerns the rates of estate duty on property, including agricultural land and it reads:

35. "Rates of estate duty on property including *agricultural land*.—

(1) The rates of estate duty shall be as mentioned in the Second Schedule:

Provided that no such duty shall be levied upon—

*	*	*	*”
*	*	*	*
			*”

(9) A combined reading of these sections would show that if the value of non-agricultural property of a deceased person exceeds rupees one lakh, then the same would be chargeable to estate duty. The rate at which the said duty would be leviable would be arrived at after including the agricultural land situate in Pepsu belonging to the deceased, but which was not liable to duty otherwise. The same would, however, be included for the determination of the principal value of the estate of the deceased and on that basis the rate of estate duty would be fixed.

(10) Learned counsel for the assessee could not urge anything against the above analysis of the sections. He, however, contended that there was a clerical error in respect of the valuation made by the authorities regarding chargeable portion of the estate of the deceased. This point is, however, for the Board to decide in accordance with law.

Gobind Ram Batra v. Union of India, etc., (Narula, J.)

---

(11) In view of what has been said above, the question referred to us for opinion is answered in the affirmative in favour of the department. The parties, are, however, left to bear their own costs in this Court.

---

N.K.S.

CIVIL MISCELLANEOUS

Before R. S. Narula, J.

GOBIND RAM BATRA,—*Petitioner.*

*versus*

UNION OF INDIA, ETC.,—*Respondents.*

**Civil Writ No. 936 of 1968.**

July 14, 1971.

*Displaced Persons (Compensation and Rehabilitation) Rules (1955)—Rules 90 and 92—Order rejecting the highest bid at a public auction of acquired evacuee property—Whether must be supported by reasons—Such order supported by extraneous reasons—High Court—Whether can quash it in writ proceedings.*

*Held*, that Displaced Persons (Compensation and Rehabilitation) Rules, 1955, do not indicate any ground on which the competent authority may reject the highest bid. However, the provision for conducting any sale by public auction subject to a reserve price contained in Rule 90(5) of the Rules does indicate that one of the grounds on which the highest bid offered at an auction may be rejected, as if such a bid is for an amount lesser than the reserve price. Though the Rules do not provide for an order rejecting a bid being supported by reasons yet if the highest bid given at an auction conducted under rule 90 which is substantially above the reserve price is rejected by the competent authority, he must support his order with reasons. This is so because an order rejecting or not approving a bid is subject to appeal and is likely to affect the civil rights of the highest bidder.

(Para 13)

*Held*, that it is not for the High Court to control the discretion of the competent authority to approve or reject a particular bid, but at the same time it will not hesitate to quash an order rejecting a bid if the reason given in support of such an order is utterly extraneous or not at all germane to the question of the sale of property, or to the question of the price which it has to fetch for the compensation pool.

(Para 13).