(1996) 07 P&H CK 0133

In the Punjab And Haryana At Chandigarh

Case No : Wealth-tax Reference No''s. 4 and 5 of 1983

Bakhshi Ram Aggarwal — APPELLANT

Vs

Commissioner of Wealth-tax — RESPONDENT

Date of Decision : 17-07-1996

Acts Referred:
Wealth Tax Act, 1957 — Section 7

Citation : (1996) 222 ITR 297

Hon'ble Judges : N.K. Agrawal, J;Ashok Bhan, J

Bench : Division Bench

Advocate : Avinash Chander Jain, for the Appellant; R.P. Sawhney and Sanjay Goyal, for the Respondent

Judgement

Ashok Bhan, J.—The following question of law has been referred to this court relating to the assessment years 1977-78 and 1978-79 u/s 27 of the Wealth-tax Act, 1957, for the opinion of this court at the instance of the assessee by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (hereinafter referred to as "the Tribunal") :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in adopting the multiple of 12 for reaching the valuation of the commercial building at G. T. Road on the basis of its annual value or not ?"

2. The issue being common, the Tribunal disposed of the appeals for the assessment years 1977-78 and 1978-79 by a common order by consolidating them together. A common reference order has been framed, therefore, both these petitions (Wealth-tax References Nos. 4 and 5 of 1983) are disposed of by a common order.

3. The assessee had constructed a commercial building on G. T. Road, Batala, and given it on rent to the United Commercial Bank on a monthly rent of Rs. 2,500. The assessee returned the value of this property on the basis of an approved valuer''s report at Rs. 2,48,000. The Wealth-tax Officer was not

satisfied with the valuation made by the approved valuer. The assessee had received a total rent of Rs. 43,675. Keeping in view the amount of rent realised by the assessee, the Wealth-tax Officer was of the view that the market value as worked out by the approved valuer was not reasonable. The market value of the property was taken at 12 1/2 times the net rental value, after allowing l/6th for repairs and municipal tax, etc. The market value was determined at Rs. 3,08,400. The assessee not satisfied with the valuation made by the Wealth-tax Officer filed an appeal before the Appellate Assistant Commissioner, Jammu. In appeal, the Appellate Assistant Commissioner reduced the multiple from 12 1/2 to 12 times for both the years. The assessee carried a further appeal before the Tribunal.

4. Before the Tribunal, counsel appearing for the assessee pressed that a multiple of 8.33 be adopted for capitalising the market value. The Tribunal, relying upon a Division Bench decision of this court in Commissioner of Income Tax Vs. Prem Nath Anand, held that the multiple of 12 was reasonable for capitalisation of the value for determining the market value. The view taken by the Gujarat High Court in Commissioner of Income Tax, Gujarat II Vs. Vimlaben Bhagwandas Patel and Kamlaben Kanjibhai Patel, adopting a multiple of 8.33 was not accepted in view of the decision of the jurisdictional High Court in Commissioner of Income Tax Vs. Prem Nath Anand, . The order of the Appellate Assistant Commissioner was upheld and the valuation was determined taking the multiple of 12. The assessee filed a petition u/s 27(1) of the Wealth-tax Act, 1957, which was accepted and the question reproduced in the earlier part of the judgment has been referred to this court for its opinion.

5. Counsel appearing for the assessee argued that the multiple of 12 adopted in Commissioner of Income Tax Vs. Prem Nath Anand, could not be made applicable in the present case as in the said case, this court was considering the question regarding determination of market value for acquisition of immovable property, whereas the present case is for determining the market value under the Wealth-tax Act.

6. We do not find any substance in this submission. Both for acquisition of immovable property as well as under the Wealth-tax Act "market value" has to be determined as on the date of valuation. u/s 7 of the Wealth-tax Act which was applicable at the relevant time (section 7 of the Wealth-tax Act stands amended with effect from April 1, 1989), market value had to be determined on the basis of estimate with relation to the price which it would have fetched had it been sold in the open market. The market value has not been determined under the Wealth-tax Act and no rules have been framed at that time for determining the market value. As market value has to be determined both for acquisition of immovable property as well as under the Wealth-tax Act, we see no reason to deviate from the principle laid down in Commissioner of Income Tax Vs. Prem Nath Anand, . The same principle would apply for determining the market value under the Wealth-tax Act as well. In our view, the Tribunal took the correct view

in multiplying the net maintainable rent by 12. Incidentally, it may be mentioned that Schedule III has been added to the Wealth-tax Act by the Direct Tax Laws (Amendment) Act, 1989, with effect from April 1, 1989, providing a multiple of 12.5 to the net maintainable rent for arriving at the valuation of the immovable property. This fact also reaffirms the view which had been taken by this court in Commissioner of Income Tax Vs. Prem Nath Anand, providing a multiple of 12 for determining the market value.

7. Accordingly, we answer the question in the affirmative, that is, against the assessee and in favour of the Revenue. No costs.

