
(1994) 01 MAD CK 0027

In the Madras High Court

Case No : Tax Cases No"s. 943 and 1320 of 1981 (References No"s. 439 and 666 of 1981)

Commissioner of Gift-tax

APPELLANT

Vs

Gopal Srinivasan

RESPONDENT

Date of Decision : 17-01-1994

Acts Referred:

Citation : (1995) 214 ITR 641

Hon'ble Judges : Venkataswami, J;Rangarajan, J

Bench : Division Bench

Advocate : J. Jayaraman, P.P.S. Janarathana Raja, for the Appellant;

Judgement

Venkataswami, J.—The following five questions which are identical in both the cases are referred to this court :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that for determining the market value of the shares

of Messrs. T. V. Sundaram Iyengar and Sons Private Limited, gifted on March 14, 1974, the proper balance-sheet to be taken was as on March

31, 1973, and not the balance-sheet as on March 31, 1974 ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the provisions for gratuity should not be added

back in arriving at the total assets of the company for the purpose of determining the break-up value of the shares ?

3. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that a net deduction of Rs. 19 lakhs should be made

from the total value of the assets of the company in relation to dividends to arrive at the break-up value of the shares ?

4. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that a discount of 30 per cent. should be given in

arriving at the break-up value of the shares of the company in the present case ?

5. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in examining the contentions raised by the assessee that

discount higher than 15 per cent. should be granted when the appeal before the Tribunal was an appeal by the Revenue ?

2. The first question, which is common to both the cases is covered by a judgment of this court in Commissioner of Gift-tax Vs. Venu Srinivasan,

according to which the balance-sheet, nearest to the date of gift, should be taken into account for valuing the assets gifted. As that has not been

done by the Tribunal in this case, the matter has to be redone by the Tribunal in accordance with the abovesaid decision. Accordingly, we answer

the first question in both the cases in the negative and against the assessee.

3. So far as the second question in both the cases is concerned, it must be answered against the Revenue, in view of the decision in Commissioner

of Wealth-tax and Others Vs. S. Ram and Others, and, accordingly, we answer this question in the affirmative and against the Revenue. In view of

our answer to the first question, no answer is necessary for questions Nos. 3, 4 and 5 as the answer to those questions would depend upon the

decisions to be rendered by the Tribunal for the first question.

4. Accordingly, we refrain from answering questions Nos. 3, 4 and 5. No costs.