
(1981) 12 MAD CK 0029
In the Madras High Court
Case No : Tax Case No. 1415 of 1977

Commissioner of Gift-tax

APPELLANT

Vs

Venu Srinivasan

RESPONDENT

Date of Decision : 09-12-1981

Acts Referred:

Citation : (1985) 156 ITR 679

Hon'ble Judges : S. Padmanabhan, J; N.V. Balasubramanian, J

Bench : Division Bench

Advocate : J. Jayaraman, for the Appellant; S.V. Subramaniam, for the Respondent

Judgement

Balasubrahmanyam, J.—The question of law in this reference, which is under the Gift-tax Act, 1958 ("the Act"), is as follows :

Whether it has been rightly held that shares of T. V. Sundaram Iyengar and Sons (P.) Ltd. should be valued for gift-tax assessment at Rs. 107.34

per share and not at Rs. 134.82 per share ?

2. The question for consideration is about the valuation of unquoted shares of a private company. The valuation in such cases is done by following

the break-up value method. That is to say, the assets and liability of the company, whose shares have to be valued, would be taken into account

first and the net worth of the company will be ascertained therefrom. Thereafter, the value of the individual shares will be determined. For arriving

at the value of the company's assets and liabilities, the company's balance-sheet is usually referred to for relevant figures of valuation.

3. These shares, whose valuation falls for determination in this case, were gifted on a day which falls in between two balance-sheet dates. The

question is, whether which of the balance-sheets and the figures contained therein should be taken into account ?

4. The two sums, Rs. 107.34 and Rs. 134.82 per share, which figures in this question of law are figures arrived at on the basis of the balance-

sheets of the company as on March 31, 1970, and March 31, 1971, respectively. The Gift-tax Officer determined the value of the gift per share at

Rs. 134.82 working it on the basis of the balance-sheet as on March 31, 1971, because this date was very near the date of the taxable gifts,

namely, March 22, 1971. The Tribunal, however, did not agree with this method of computation by the Gift-tax Officer. The Tribunal held that the

valuation must be made on the basis of the balance-sheet as on March, 31, 1970, because that was the last published balance-sheet after which

the gift of the shares took place. According to the Tribunal, the balance-sheet as on March 31, 1970, would alone provide the basis for arriving at

the break-up value of the assessee's shares which are the subject-matter of the gift. Having adopted the balance-sheet as on March 31, 1970, as

the basis and having worked out the value of the shares by following the break-up value method, the Tribunal thereafter made certain allowances

on account of the declaration and distribution of dividends from out of those profits, although the distribution was subsequent to March 31, 1970.

This was because, according to the Tribunal, the gift was made only on March 22, 1971. The Tribunal did not, however, take note of the

subsequent balance-sheet as on March 31, 1971, for the technical reason that the balance-sheet was subsequent to the date of the gift, namely,

March 22, 1971.

5. It is this decision of the Tribunal which is the subject-matter of challenge in the question of law which we have referred to at the beginning of this

judgment. The learned counsel for the Department submitted that if there had been a distribution of dividends subsequent to the balance-sheet as

on March 31, 1970, then that would certainly be reflected in the balance-sheet as on March 31, 1971, and since this balance-sheet depicts the

figures of assets and liabilities as nearly as possible, in the circumstances, to the date of the gift, this subsequent balance-sheet must be taken as the

basis for working out the break-up value of the assessee's shares in the company.

6. A similar argument was addressed on behalf of the Department in another case which was heard by us today, namely, Tax case No. 863 of

1977, Commissioner of Gift-tax Vs. K. Ramesh, . We accepted the argument and directed the Tribunal to take note of the position in the balance-

sheet subsequent to the date of the gift in view of its proximity to the date of gift. For the same reasons, we hold that in this case also, the Tribunal

was not justified in disregarding the position of the assets and liabilities of the company as on March 31, 1971.

7. The frame of the question of law expects us to say which value per share, in terms of rupees and paise, is the correct valuation. Within the

framework of the tax reference procedure, however, it is possible for us to answer the question in this form. Having decided the matter of principle

that the break-up value of the shares has to be worked out on the basis of the balance-sheet as at March 31, 1971, which is nearer the date of the

gift, we must leave the actual figures to be worked out by the forum whose job it is to render factual findings.

8. In the result, therefore, while holding that the Tribunals valuation is not based on a correct approach, we make it clear that we do not express

ourselves as to the correctness or incorrectness of the figures adopted by the Income Tax Officer and the Tribunal, respectively. This means that

the correct figure will have to be worked out by the tribunal from the view-points we have earlier laid down.

9. The reference is answered accordingly, but there will be no order as to costs.