(2001) 02 MAD CK 0004

In the Madras High Court

Case No : Tax Case No. 358 of 1994 (Reference No. 157 of 1994) & Tax Case No. 358 of 1994 (Reference No. 157 of 1994) 22 February 2001 & Tax Case No. 358 of 1994 and Reference No. 157 of 1994

Commissioner of Income Tax APPELLANT

Vs

M.S.P. Rajah (HUF) RESPONDENT

Date of Decision : 22-02-2001

Acts Referred:

Citation : (2001) 253 ITR 180

Hon'ble Judges : R. Jayasimha Babu, J;K. Gnanaprakasam, J

Bench : Full Bench

Advocate : Mrs. Chitra Venkataraman, for the Revenue P. P. S. Ianarthana Raja, for the Assessee, for the Appellant;

Judgement

R. Jayasi Babu, J.

The Tribunal has held that the revenue could not have adopted the higher valuation for one of the properties owned by the assessee which is a

coffee curing works and which had been valued by the Valuing Officer at over Rs. 47.88 lakhs, on the ground that the value of that property at the

lower figure of Rs. 12.68 lakhs had been approved by the Commissioner, in the assessee''s appeal which had been filed against the order of

assessment under the Wealth Tax Act, 1957, for the assessment year 1982-83.

The relevant part of the Commissioner''s order on which the Tribunal relied to reach that conclusion reads as under :

The increase in value of other properties is reasonable and I am aware of the characteristics of these properties, I confirm the addition.

In appeal, the assessee had questioned the valuation of two of the other properties. The Commissioner rejected the claim for exemption u/s 7(4) in respect of one of the properties. The assessee had not questioned that valuation of the coffee curing works and that issue was not before the

Commissioner. The observation of the Commissioner regarding the increase in value of the ""other properties"" must, having regard to the issue

raised in the appeal, be confined to the value of the other properties whose valuations had been questioned in appeal by the assessee and cannot

be read as extending to the consideration and approval of the valuation of the property, valuation of which was not the subject-matter of appeal.

It was, therefore, open to the Commissioner to revise the valuation in respect of the coffee curing works on the basis of the valuer''s report, if it

was otherwise permissible to do so. We, therefore, answer the question referred to us, regarding the correctness of the Tribunal''s view that the

order of assessment had merged with the order in appeal and that the valuation of the coffee curing works was not capable of being revised

thereafter, against the assessee and in favour of the revenue. We also answer the second question regarding the applicability of Explanation below

section 25(2) of the Wealth Tax Act, 1957, to the facts of this case, in favour of the revenue and against the assessee.

Counsel for the assessee submitted that the assessee had raised other grounds also in the appeal before the Tribunal and those grounds had not

been considered by the Tribunal because of the view it took regarding the scope, namely, that the revision was wholly impermissible because of the

merger of the assessment order with the appellate order. A perusal of the order does not show that it had adverted to any other ground in the

appeal.

We, therefore, remand the matter to the Tribunal to consider the other grounds, if there are other grounds that had been raised by the assessee in

its memorandum of appeal.