

(1998) 12 MAD CK 0018

In the Madras High Court

Case No : Tax Case No. 947 of 1992 (Reference No. 493 of 1992)

Commissioner of Income Tax

APPELLANT

Vs

Paranjothi Nadar

RESPONDENT

Date of Decision : 01-12-1998

Acts Referred:

Citation : (1999) 240 ITR 713

Hon'ble Judges : R. Jayasimha Babu, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant;

Judgement

A. Subbulakshmy, J.—The assessee-firm filed returns of income for the year 1982-83. During the lifetime of one Shri Paranjothi Nadar, he

was one of the five partners of the assessee-firm. He died on October 31, 1981. On the death of Paranjothi Nadar, the assessee claimed that the

firm stood dissolved, and the assessee furnished returns of income disclosing an income of Rs. 22,940 for the period from April 1, 1981 to

October 31, 1981, stating that closing stocks had to be valued at market price. The Assessing Officer brought to charge an aggregate sum of Rs.

71,140 being the differential arising out of the valuation of the closing stock at market price and he made assessment one from April 1, 1981 to

October 31, 1981, and the other from November 1, 1981, to March 31, 1982. The first appellate authority confirmed the view taken by the

Assessing Officer. The Tribunal found that on the death of Paranjothi Nadar, the remaining four partners took one Ravi Gunapandian as partner

and continued the business as before and the Tribunal also found that the business of the firm having been continued, there was no necessity for

valuing the closing stock as on October 31, 1981, at market price. On that, the reference has arisen and at the instance of the Revenue, the

following question has been referred to this court for our opinion :

Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the closing stock of the firm as

on October 31, 1981, being the date of dissolution of the erstwhile firm should not be valued on the basis of market price ?

2. The claim of the assessee is that on the death of Paranjothi Nadar, the firm stood dissolved and, hence, the assessee is liable to furnish returns of

income only for the period from April 1, 1981 to October 31, 1981, i.e., till the date of death of the partner, one Paranjothi Nadar. The Tribunal

had found that since one partner was added on the death of the said Paranjothi Nadar and the business was continued, there is no necessity to

value the closing stock as on October 31, 1981, at the market price.

3. In the case of Commissioner of Income Tax Vs. India Reinforcing Company, , this court has held that (headnote) :

In the case of dissolution of a firm, the closing stock had to be valued at the market value. The mere fact that some of the other items had been left

untouched could not be a justification for not valuing the closing stock at the market value on the dissolution of the firm.

4. The apex court has held in the case of A.L.A. Firm Vs. Commissioner of Income Tax, Madras, , that with a view to arrive at the correct picture

of trade of the partnership on the date when it ceases to function, the valuation of stock-in-trade should be made on the basis of the prevailing

market price, affirming the view taken in the case of G. R. Ramachari and Co. Vs. Commissioner of Income Tax, Madras, .

5. The assessee-firm was constituted under the partnership deed dated April 21, 1956, at will and on the death of Paranjothi Nadar, one of the

partners of the firm, the firm stood dissolved and a new firm was constituted and two separate assessments were made by the Assessing Officer.

Following the decision of the Supreme Court in the decision reported in A.L.A. Firm Vs. Commissioner of Income Tax, Madras, , we hold that

the closing stock of the firm as on October 31, 1981, is to be valued at market price. On the death of Paranjothi Nadar, the firm stood dissolved

and so, the closing stock as on October 31, 1981, being the date of dissolution of

the firm, should be valued on the basis of market price. The view taken by the Tribunal is not justified.

6. We answer the question in favour of the Revenue and against the asses-see. No costs.