(2003) 04 BOM CK 0060

In the Bombay High Court

Case No : Wealth-tax Appeal No''s. 239, 242 and 244 of 2001

Commissioner of Income Tax	APPELLANT
Vs	
Traders Pvt. Ltd.	RESPONDENT

Date of Decision : 16-04-2003

Acts Referred:
Wealth Tax Act, 1957 — Section 7

Citation : (2003) 264 ITR 667 : (2004) 140 TAXMAN 310

Hon'ble Judges : S.H. Kapadia, J;J.P. Devadhar, J

Bench : Division Bench

Advocate : R.V. Desai and P.S. Jetly, instructed by L.S. Shetty, for the Appellant; P.J. Pardiwala, instructed by P. Kamani, for the Respondent

Final Decision : Dismissed

Judgement

S.H. Kapadia, J.—The above three appeals deal with common question of facts and, therefore, they are disposed of by this common judgment. Wealth-tax Appeal No. 239 of 2001 is in respect of the assessment year 1989-90, Wealth-tax Appeal No. 242 of 2001 is in respect of the assessment year 1992-93 and the Wealth-tax Appeal No. 244 of 2001 is in respect of the assessment year 1990-91.

2. Being aggrieved by the decision of the Tribunal, the Department has filed this appeal u/s 260A of the Income Tax Act, 1961.

Facts :

3. The assessee-company filed its return of wealth on April 13, 1992, in response to a notice u/s 17(1) of the Wealth-tax Act, 1957, declaring the net wealth of rupees nil, The Assessing Officer calculated the net wealth of the assessee-company at Rs. 48,07,874. The Assessing Officer came to the conclusion that the property was constructed on a lease hold land. He therefore worked out the annual rental value in the manner indicated on page 10 of the paper book. Being aggrieved, the assessee carried the matter in appeal to the Commissioner of Income Tax (Appeals) who took the view that, in this matter, the Government

valuer has not worked out the actual rent received for the property occupied by the tenant of the assessee. In the circumstances, the Commissioner of Income Tax (Appeals) remanded the matter back to the Assessing Officer. While remanding the matter, the Commissioner of Income Tax (Appeals) further observed that the rate of capitalisation should be worked out on a scientific basis and, consequently, the Assessing Officer was directed to apply Schedule III to the Wealth-tax Act and revalue the property on that basis. Being aggrieved by the order of remand, the Department carried the matter in appeal to the Tribunal on the ground that the Commissioner of Income Tax (Appeals) erred in directing the Valuation Officer to take the rent of Rs. 4,000 and not total compensation received by the assessee for the premises. It may be mentioned that there is no such direction in the order of the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) has merely directed the Assessing Officer to revalue the property after taking into account the principles mentioned in Schedule III to the Wealth-tax Act. For the aforesaid reasons, the Tribunal was right in not interfering with the order of remand passed by the Commissioner of Income Tax (Appeals).

Argument :

4. It was argued on behalf of the Department that, in this matter, the Department has come in appeal before the High Court as the Commissioner of Income Tax (Appeals) has laid down a principle of law while remanding the matter to the Assessing Officer. No such principle has been laid down by the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) has merely directed valuation of the property as per Schedule III to the Wealth-tax Act. In the circumstances, no substantial question of law arises in these appeals.

Conclusion :

5. Consequently, all the three appeals are dismissed with no order as to costs.

