(1995) 10 DEL CK 0040

In the Delhi High Court

Case No : WT Case No. 156 of 1989

Commissioner of Wealth Tax APPELLANT

Vs

Ajay Kumar Sood (HUF) RESPONDENT

Date of Decision : 18-10-1995

Acts Referred:

Wealth Tax Act, 1957 — Section 27(3), 7(1)

Citation : (1996) 85 TAXMAN 193

Hon'ble Judges : Dr. M.K. Sharma, J;Devinder Gupta, J

Bench : Division Bench

Advocate : Rajendra and R.N. Verma, for the Appellant; M.S. Sayali, for the Respondent

Judgement

Dr. M.K. Sharma, J.—This is an application u/s 27(3) of the Wealth-tax Act, 1957 (''the Act'') seeking for a direction to the Tribunal to state a case and refer the following question of law in respect of the assessment year 1982-83: Whether, the Tribunal was correct in law on the facts of the case in directing the WTO to adopt the market value of the share of R.C. Sood & Co. (P.) Ltd., Star Construction Co. (P.) Ltd. and Nehru Place Hotel Ltd., on the yield method instead of the break-up value under rule 1D of the W.T. Rules.

The WTO by his assessment order in respect of the present assessee for the relevant assessment year 1982-83 valued the shares as per rule 1D of the Wealth-tax Rules (''the Rules''). On appeal having been filed the AAC directed to adopt the market value of shares on yield basis. The Tribunal, however, on the appeal filed before it followed the decision of this Court in the writ petition of Sharbati Devi Jhalani Vs. Commissioner of Wealth Tax, Delhi-VII, and others, and directed the WTO to adopt the market value of the shares on the yield method instead of the break-up value under rule 1D. Consequently, the revenue filed a reference application seeking reference to this Court on the question referred to in paragraph 1 hereinabove. The Tribunal, however, held that the answer to the question sought for by the revenue is self-evident in view of the answer in the case of Sharbati Devi Jhalani (supra) and rejected the reference application on the ground that the question sought for is academic. 2. The learned counsel appearing for the respective parties fairly submitted before us that the case of Sharbati Devi Jhalani (supra) came to be reversed by the Supreme Court in the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, and also the connected case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, In view of the fact that the case of Sharbati Devi Jhalani (supra) on which the Tribunal placed reliance for rejecting the reference application having been reversed by the Supreme Court in the case of Bharat Hari Singhania (supra) we feel that a question of law does arise out of the order of the Tribunal. We, with the consent of the parties, convert the present application u/s 27(3) into a reference, in view of the fact that the question of law that is sought to be referred to this Court by the present application concluded by the aforesaid decision of the Supreme Court in Bharat Hari Singhania''s case (supra). The Supreme Court has held that there may be fluctuations between the date of the balance sheet of the Company and the valuation date, one way or the other, is no ground for holding the Explanation 1 to rule 1D is inconsistent with section 7(1) of the Act or that rule 1D should not be followed unless the valuation date or the date of the balance sheet are identical. In the said case it has been further held that merely because the valuation date of the assessee and the date with reference to which the balance sheet of the assessee is drawn do not coincide, it cannot be said that rule 1D is not mandatory or that it need not be followed.

3. Accordingly, following the ratio of the aforesaid decision laid down by the Supreme Court in Sharbati Devi Jhalani''s case (supra) we answer the question in the present reference in the negative and in favour of the revenue and against the assessee. In the result, the question stands answered accordingly.

