

(2000) 09 DEL CK 0117

In the Delhi High Court

Case No : Wealth-tax Reference No"s. 280 to 283 of 1983

Commissioner of Wealth Tax

APPELLANT

Vs

Angira Devi Gupta

RESPONDENT

Date of Decision : 07-09-2000

Acts Referred:

Citation : (2001) 247 ITR 485 : (2001) 118 TAXMAN 20

Hon'ble Judges : Dr. Arijit Pasayat, C.J;D.K. Jain, J

Bench : Division Bench

Advocate : R.C. Pandey and Prem Lata Bansal, for the Appellant; None, for the Respondent

Judgement

Arijit Pasayat, C.J.—These four references have been made u/s 27(1) of the Wealth-tax Act, 1957 (in short "the Act"), at the instance of the Revenue by the Income Tax Appellate Tribunal, Delhi Bench "D" (for short "the Tribunal"), and the following questions have been referred for the opinion of this court :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the assessed was not liable for penalties u/s 18(1)(a) of the Wealth-tax Act, 1957 ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in confirming the order of the Appellate Assistant Commissioner ?"

2. The factual position as indicated in the statement of case is as follows :

The assessed filed her returns of wealth for the assessment years 1970-71 to 1973-74 belatedly. Proceedings u/s 18(1)(a) of the Act were initiated. The assessed submitted that being an old lady, she had to depend on the accountants for preparation of statements and filing of the returns. Since the accountant, Shri Banarsi Dass, was busy for finalisation of accounts work of other assessees, there was some unintended delay in filing the returns. The plea did not find acceptance by the Wealth-tax Officer who imposed penalties for all the four

years. The assessed preferred appeals before the first appellate authority, i.e., the Appellate Assistant Commissioner (in short "the AAC"), who deleted the penalties. The order of the Appellate Assistant Commissioner was assailed before the Tribunal by the Revenue. By order dated June 17, 1982, the Tribunal accepted the assessee's plea and directed deletion of the penalties imposed for the four assessment years. The findings of the Tribunal are as follows :

"That apart, the contention of the assessed as to the assessed being an old lady and having been prevented from filing the returns in time by reason of her accountants being busy and not available and these facts having not been rebutted either by the Wealth-tax Officer or else by the learned Departmental Representative at our stage. This contention of the assessed which is based on facts, pure and simple constitute sufficient cause within the meaning of Section 18(1)(a) of the Act and in that view of the matter, we have to hold that the assessed was prevented by sufficient cause from filing the returns in time for all the assessment years under appeal.

Yet, that apart, the assessed has applied for extension of time up to 30th of September of each year. The assessed could apply for extension of time even belatedly, i.e., after the expiry of the last dates for filing of the returns and it is for the Revenue to have discussed the extension application and if thought fit and warranted by facts to have rejected these applications. But since these belated applications praying for extension of time have not been rejected by the Revenue, these have to be taken to have been allowed and in that view of the matter, to the extent, the extension of time was prayed for by the assessed in these applications, time for filing of the returns has to be held to have been extended."

3. On being moved by the Revenue, references have been made as stated above.
4. Learned counsel for the Revenue submitted that the Explanation offered was too brittle to warrant acceptance. Any fanciful Explanation offered should not be a substitute for a plausible Explanation and the Tribunal without application of mind has accepted the Explanation by the assessed and directed deletion of the penalties imposed.
5. There is no appearance on behalf of the assessed in spite of service of notice.
6. The question whether there was a sufficient cause for the delay in filing of the returns is essentially factual. The Tribunal has recorded a finding with reference to materials on record that sufficient cause existed for belated filing of the returns. The finding being factual, which cannot be called to be perverse or unreasonable, in our view no question of law arises. We, Therefore, decline to answer the questions referred.
7. The references are returned unanswered.