
(1998) 11 MAD CK 0151

In the Madras High Court

Case No : TC No. 340 of 1994 (Reference No. 139 of 1994) 9 November 1998

COMMISSIONER OF WEALTH TAX

APPELLANT

Vs

CHELLADURAI

RESPONDENT

Date of Decision : 09-11-1998

Acts Referred:

Citation : (2000) 111 TAXMAN 208

Hon'ble Judges : R. Jayasimha Babu, J; Mrs. A. Subbulakshmi, J; MANUTN15241998.htm, J; A. Subbulakshmi, J

Bench : Full Bench

Judgement

Jayasimha Babu, J.

The substantive question referred to us is as to whether the Tribunal was right in holding that the advance tax paid should not be deducted for the purpose of computing the value of unquoted equity shares under rule 1D of the Wealth Tax Rules, 1957.

2. The Supreme Court in the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, has held that rule 1D is a valid rule and that it is mandatory. The manner in which the value of the unquoted share is to be determined is regulated by that rule. Items which are not to be regarded as liabilities and the items which are not to be regarded as assets even though shown as such in the balance sheet of the company are enumerated in the Explanation of the rule and that Explanation is equally mandatory.

3. As observed by the Supreme Court in that case:

"... Now no company would show the amount of advance tax paid which is shown as an asset in the column relating to asset, simultaneously as a liability in the column of liabilities. The same amount cannot be showing both as an asset as well as a liability..... However, if in the case of the balance sheet of any company, the said amount of advance tax paid is also shown as a liability, i.e., if the said amount is included in the amount set apart as provision towards

taxation, it would obviously have to be deleted from the column of liabilities and this is also what the aforesaid words in clause (ii)(e) say. Clause (ii)(e) is in a sense complementary to clause (i)(a). Truly speaking, the advance tax paid is not really an asset but the proforma of balance sheet in Schedule VI to the Companies Act requires it to be shown as such. What clause (i)(a) does is to remove the said amount from the list of assets for the purpose of rule 1D. . . ." (p. 31)

4. The advance tax paid, therefore, cannot be treated as part of the asset when the entire amount of advance tax liability is shown in the column relating to liabilities in the balance sheet.

5. The question referred to us is, therefore, answered in favour of the revenue and against the assessee.

6. The assessee has not been served with notice in this reference. We have, however, proceeded to dispose of the reference in view of the binding decision of the Supreme Court with regard to rule 1D which binds the assessee as well, the law declared by the Supreme Court being the law of the land.

7. We, however, reserve liberty to the assessee to apply to us if anything material which was required to have been brought to our notice was not been so brought to our notice by the revenue.