

(1990) 08 BOM CK 0108

In the Bombay High Court

Case No : Wealth-Tax Reference No. 114 of 1976

Commissioner of Wealth-tax

APPELLANT

Vs

C.M. Correa

RESPONDENT

Date of Decision : 08-08-1990

Acts Referred:

Citation : (1991) 192 ITR 184

Hon'ble Judges : Sujata V. Manohar, J;D.R. Dhanuka, J

Bench : Division Bench

Advocate : G.S. Jetley, for the Appellant;

Judgement

Mrs. Sujata V. Manohar J.

1. The following two question are referred to us for determination u/s 27(1) of the Wealth-tax Act, 1957 :

(1) Whether, on the facts and in the circumstances of the case, in view of the cash system of accounting adopted by the assessee, the outstanding fees remaining unrecovered as on the valuation date constitute the net wealth of the assessee as on such date ?

(2) If the answer to question No. (1) is in affirmative, whether the amount to be included in the net wealth would be the gross outstanding fees or the present discounted value thereof as reduced by the outstanding liabilities as on the valuation date ? "

2. As far as question No. 1 is concerned, it is an accepted position that, in view of the decision of the Supreme Court in the case of Commissioner of Wealth-tax, Orissa Vs. Vysyaraju Badreenarayana Moorthy Raju, , which has been followed by our High Court in the case of Commissioner of Wealth-tax Vs. V.M. Shah, , question No. (1) has to be answered in the affirmative and in favour of the Revenue. As regards question No. (2), the value of such outstandings for the relevant assessment year is required to be determined on the basis of the

material on record or such material which may be permitted to be brought on record by the Tribunal when the matter goes back to the Tribunal. We, accordingly, direct the Tribunal to determine, on the basis of the material so produced or allowed to be produced, whether the gross outstandings are required to be discounted, in any manner, taking into account factors such as bad debts and in the light of the above two decisions as well as our decision (myself and Sugla J.) dated June 11, 1990, in Wealth-tax Reference No. 168 of 1976 Commissioner of Wealth Tax Vs. Vasantlal D. Mehta, . The two question are accordingly answered. There will be no order as to costs.