(1991) 02 AHC CK 0061

In the Allahabad High Court

Case No : Wealth-tax Reference No. 210 of 1979

Commissioner of Wealth-tax APPELLANT

Vs

Dr. H. Rahman RESPONDENT

Date of Decision : 07-02-1991

Acts Referred:
Wealth Tax Act, 1957 — Section 16A(5), 16A(6)

Citation : (1991) 99 CTR 39 : (1991) 189 ITR 307

Hon'ble Judges : B.P. Jeevan Reddy, C.J;R.A. Sharma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

B.P. Jeevan Reddy, C.J.—u/s 27(3) of the Wealth-tax Act, 1957, the Tribunal has stated the following two questions :

"(1) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was justified in confirming the order of the Appellate Assistant Commissioner setting aside the assessment on the ground that the Wealth-tax Officer should have given reasons for rejecting the report of the valuers ?"

(2) Whether, on the facts and in the circumstances of the case and in view of the provisions of Section 16A(6) of the Wealth-tax Act, the Wealth-tax Officer is not statutorily obliged to adopt the valuation estimated by the Valuation Officer u/s 16A(5) of the Wealth-tax Act and complete the assessment in conformity with the estimate of the Valuation Officer ?"

What happened in this case was that the assessee had filed a report of the valuer in support of his valuation, It was not accepted. The Wealth-tax Officer referred the matter to the Valuation Officer u/s 16A(1). On receipt of the valuation report, the Wealth-tax Officer accepted the same and made an assessment order in conformity with it. On appeal, however, the Appellate Assistant Commissioner allowed the appeal and remitted the matter to the Wealth-tax Officer to examine the matter afresh. The main ground given by the Appellate Assistant

Commissioner is that the Wealth-tax Officer has not given any reasons for rejecting the valuation made by the assessee''s valuer. Against the order of the Appellate Assistant Commissioner, the Revenue went up in appeal to the Tribunal which was dismissed, the Tribunal agreeing with the reasoning of the Appellate Assistant Commissioner. Thereupon the Revenue obtained this reference.

Sub-section (6) of Section 16A reads as follows : --

"16A. Reference to Valuation Officer.--.. .

(6) On receipt of the order under Sub-section (3) or Sub-section (5) from the Valuation Officer, the Assessing Officer shall, so far as the valuation of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer."

A reading of the sub-section shows that the Wealth-tax Officer has no option but to proceed to complete the assessment in conformity with the assessment of the Valuation Officer in so far as the valuation of the asset in question is concerned. This is also the view taken by a Division Bench of this court in M.C. Khunnah Vs. Union of India (UOI) and Others, .

2. Accordingly, question No. 1 is answered in the negative, i.e., in favour of the Revenue and against the assessee. Question No. 2 is answered in the negative. The Wealth-tax Officer is statutorily bound by the valuation report submitted by the Valuation Officer under Sub-section (5) of Section 16A as provided in Sub-section (6) thereof. The correctness of the valuation report may be challenged in appeal but so far as the Wealth-tax Officer is concerned, he is bound by it.

3. The reference is answered accordingly.

