(1990) 11 RAJ CK 0023

In the Rajasthan High Court

Case No : Wealth-tax Reference Application No. 14 of 1989

Commissioner of Wealth-tax APPELLANT

Vs

Girdhari Lal Saraf RESPONDENT

Date of Decision : 27-11-1990

Acts Referred:
Wealth Tax Act, 1957 — Section 27(3)

Citation : (1991) 91 CTR 225 : (1991) 190 ITR 264

Hon'ble Judges : Mohini Kapur, J;Inder Sen Israni, J

Bench : Division Bench

Advocate : V.K. Singhal, for the Appellant; N.M. Ranka, for the Respondent

Judgement

Inder Sen Israni, J.—This reference application u/s 27 of the Wealth-tax Act, 1957, has been filed by the Commissioner of Wealth-tax, Jaipur.

2. It is submitted by Shri V. K. Singhal, learned counsel, that the respondent-assessee is holding some shares of Messrs. Premnath Motors (Rajas-than) Pvt. Ltd. and Messrs. Saraf Textile Mills Pvt. Ltd., which are not quoted. The value of the share in the case of Messrs. Saraf Textile Mills Pvt. Ltd. was taken on the basis of the balance-sheet and in the case of Messrs. Premnath Motors (Rajasthan) Pvt. Ltd., the face value was taken as the break-up value. The assessee preferred an appeal to the Appellate Assistant Commissioner of Wealth-tax who has held that the profit earning method will be the appropriate method in the case of Messrs. Premnath Motors (Rajasthan) Pvt. Ltd. and accepted the appeal. The petitioner submitted an appeal before the Income Tax Appellate Tribunal and the Tribunal has held that where the valuation dates of the company and the assessees do not coincide, the rule is only directory and the proper method would be to value the shares on the yield method and rejected the appeal of the petitioner. It is further submitted that, therefore, a question of law arises whether the Tribunal was right in holding that the value of the shares held by the assessee in M/s. Premnath Motors (Rajasthan) Pvt. Ltd. should be taken on the basis of the yield method. It is pointed out that Rule 1D and the proviso

thereto are mandatory and not directory. Learned counsel placed reliance on Mrs. Grace Collis and Others Vs. Commissioner of Wealth-tax, and Commissioner of Wealth-tax Vs. Sripat Singhania, . It was held that Rule 1D was mandatory. However, learned counsel frankly pointed out that some other High Courts have taken a different view and have held this rule to be only directory in nature. In this context, Sharbati Devi Jhalani Vs. Commissioner of Wealth Tax, Delhi-VII, and others, was referred to.

3. It was submitted by Shri N. M. Ranka, learned counsel for the assessee, that the assessee has followed the decision of their Lordships of the Supreme Court in the case of Commissioner of Gift Tax, Bombay Vs. Smt. Kusumben D. Mahadevia, and allowed the claim of the assessee that shares should be valued on the yield basis. The Tribunal also confirmed the view taking into account the cases of Commissioner of Gift Tax, Bombay Vs. Smt. Kusumben D. Mahadevia, and Sharbati Devi Jhalani Vs. Commissioner of Wealth Tax, Delhi-VII, and others, and held that the value of unquoted shares should be on yield method basis and rejected the appeal of the petitioner. It was also submitted that the tax effect in this case for both the" years is Rs. 858 which is nominal and, therefore, will not serve any purpose.

4. It is evident that different High Courts have taken different views regarding the nature of Rule 1D. However, the amount of the tax involved in both the years is rather nominal, i.e., Rs. 858 only ; even if the calculation of the tax is made by the method canvassed by Shri Singhal, it will make a difference of about Rs. 700 only. The assessment years are 1980-81 and 1981-82 which are now nearly a decade old. Even if a reference is made and the same is decided in favour of the Revenue, it will hardly serve any purpose for the Department. If we take into account the expenses involved on both the sides and the time of all the authorities including this court which may be involved in deciding the same, the whole exercise will be more or less futile since the amount involved is negligible. In this connection, reference may be made to CGT v. Executors and Trustees of the Estate of the Late Shri Ambalal Sarabhai, (1988) 170 ITR 144 (SC) in which a similar matter came up for the consideration of the apex court in which the amount of gift-tax involved was Rs. 5,661. It was pointed out by their Lordships that the magnitude of the mechanism for refutation of the value of the gifts and the difference in the quantum of the tax it might result in, do not bear a reasonable or sensible proportion. Having regard to the pecuniary involvement in the case, which is obviously small, we think we should not expose the parties to a fresh round of litigation. Interference was, therefore, declined in the matter. The amount involved under the application for reference is smaller than the one involved in the matter before the apex court. The Tribunal had also declined to make a reference on this very ground.

5. We are, therefore, of the considered opinion that it will not be worthwhile to interfere in the matter.