

(1999) 04 MAD CK 0159

In the Madras High Court

Case No : Tax Case No"s. 623 to 626 of 1991 (Reference No"s. 262 to 265 of 1991)

Commissioner of Wealth-tax

APPELLANT

Vs

J. Abdul Khader Sait and Another

RESPONDENT

Date of Decision : 29-04-1999

Acts Referred:

Citation : (2000) 243 ITR 177

Hon'ble Judges : R. Jayasimha Babu, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : S. Sundaresan, for the Appellant; P.P.S. Janarthana Raja, for Subbaraya Aiyar and padmanabhan, for the Respondent

Judgement

A. Subbulakshmy, J.—The assessee is an individual who is co-owner of four properties. The first property is a residential property. The assessee disclosed the value of this property at Rs. 80,000. The Valuation Officer took the value of the building by capitalising the rent of Rs. 6,700 at 7.722 times and added reversionary value of the land to arrive at the value of Rs. 2,04,000. The second property is "Band Line property". The assessee showed the value at Rs. 70,000. The Valuation Officer took the value at Rs. 7 lakhs by separately valuing part of the land at Rs. 5,02,000, valuing the building at 7.722 times of the net rent of Rs. 4,996 and adding the reversionary value of the land. The third property is the "Cash Bazar property", the value of which was disclosed as Rs. 2,75,000. The Valuation Officer determined it at Rs. 6,53,000 by taking 7.36 times of the net rent of Rs. 51,076 for the structure and adding the reversionary value of the land. The last property is Liberty Theatre whose value was shown as Rs. 3 lakhs while the Valuation Officer estimated the value at Rs. 8,79,000 by applying the land and building method.

2. On appeal, the Appellate Assistant Commissioner deleted the reversionary value of the land in the computation made by the Valuation Officer thus reducing the value of the properties. The Commissioner directed that the value of

Alexandra House be accepted as Rs. 80,000, the value of the Cash Bazar property as Rs. 3,38,300 and the value of the property, Liberty Theatre as Rs. 3,79,700. With reference to the Band Line property, he directed the Wealth-tax Officer to recompute the value of the land which was separately assessed after allowing deduction of 10 per cent, for joint ownership and a reduction of Rs. 10,000 for inability to evict the tenants.

3. The Revenue preferred appeals before the Tribunal as against the order of the Appellate Assistant Commissioner.

4. The Tribunal did not interfere with the order of the appellate authority in respect of Alexandra House, the Band Line property and Liberty Theatre, but the Appellate Tribunal enhanced the value of the Cash Bazar property only and accordingly confirmed the order of the Appellate Assistant Commissioner in respect of valuation of other properties except the Cash Bazar property.

5. On this the reference has arisen at the instance of the Revenue and the following question has been referred to this court for our opinion :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that no addition on account of "reversionary value" of the lands was warranted ?"

6. Learned counsel for the Revenue submitted that the Appellate Assistant Commissioner was in error in deleting the reversionary value of the land and the superstructures were not really valuable and the land is more valuable and the land and building would give a better valuation of the properties and even in respect of Liberty Theatre, there was no question of deleting the land value because there was no capitalisation of rent which could be deemed to be included in the value of the land.

7. Counsel for the assessee submitted that the proper method of valuation was the capitalisation of rent and the value determined by the Appellate Assistant Commissioner should be upheld. He further submitted that since the value was determined by adopting the rental method, there was no justification in valuing the land and the order of the Appellate Assistant Commissioner is sustainable.

8. The Wealth-tax Officer had added the reversionary value of the land which was not accepted by the Appellate Assistant Commissioner. The Commissioner has followed the decision of the Calcutta High Court in Commissioner of Income Tax Vs. Anup Kumar Kapoor and Others, and has taken the view that there is no justification in adding the reversionary value of the land as the value of the property has been determined by adopting the rental method. The Tribunal confirmed the order of the Appellate Assistant Commissioner in respect of the valuation of other properties except the value of the Cash Bazar property. With regard to the Cash Bazar property, the finding of the Tribunal is that the capitalisation of rent of about Rs. 50,000 by 12 times yields a value of about Rs. 6 lakhs in the place of Rs. 3,38,300 taken by the Appellate Assistant

Commissioner, Accordingly, the Tribunal enhanced the value of the Cash Bazar property basing upon capitalisation of rent. The Tribunal was perfectly justified in arriving at the value of the Cash Bazar property on the basis of capitalisation of rent.

9. In Commissioner of Income Tax Vs. Anup Kumar Kapoor and Others, , it has been held by the Calcutta High Court that (headnote) :

"The value of the land cannot be taken twice, once in arriving at the figure by the yield or rental method and again in applying the value of an imaginary future reversionary value of the land."

10. We concur with the view taken by the Calcutta High Court and we are of the view that the yield or rental method of valuation is proper and the value cannot be enhanced by adding the reversionary value of the land. The Wealth-tax Officer was not justified in adding the reversionary value of the land. Hence, we find no error in the order passed by the Tribunal. The value of the land cannot be enhanced by adding the reversionary value of the land.

11. We answer the question referred to this court in favour of the assessee and against the Revenue. No costs.