(1999) 04 MAD CK 0135

In the Madras High Court

Case No : Tax Case No''s. 623 to 626 of 1991 29 April 1999 A.Y. 1976-77 and 1977-78

COMMISSIONER OF WEALTH TAX APPELLANT

Vs

J. ABDUL KHADER SAIT and Another RESPONDENT

Date of Decision : 29-04-1999

Acts Referred:

Citation : (2000) 159 CTR 282

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

Bench : Full Bench

Advocate : S. Sundarasa, for the Revenue P. P. S. Janarthanaraja, for the Assessee, for the Appellant;

Judgement

Mrs. A.. Subbulakshmy, J:

Assessees are individuals who are co-owners 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 at Rs. 53,800, 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. 8,79,800 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 Appellate Assistant Commissioner directed that the value of the 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. 5,79,700. 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 appeal 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, Band Line property and Liberty theatre,

but the 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 Tribunal was right in holding that no addition on account of ""reversionary value"" of

the land'', 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 assessees submitted that 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 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

Appellate Assistant 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 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 Cash Bazar property, the finding of the Tribunal is the capitalisation

of rent of about Rs. 50,000 by 12 times yield a value of about Rs. 6 lakhs in the place of Rs. 3,38,000 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 the value of the Cash Bazar property on the basis of capitalisation of rent.

9. In CIT v. Anup Kumar Kapoor (supra) it has been held by the Calcutta High Court that :

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

imaginary future reversionary value of the land.

We concur with the view taken by the Calcutta High Court and we are of the view that yield or rental method of valuation is proper and the value

cannot be enhanced by adding reversionary value of the land. The Wealth Tax Officer was not justified in adding reversionary value of the land.

Hence, we find no error in the older passed by the Tribunal. The value of the land cannot be enhanced by adding reversionary value of the land.

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

