(1986) 07 MP CK 0029

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 362 of 1984

Commissioner of Wealth-tax APPELLANT

Vs

Lachmandas Bhatia RESPONDENT

Date of Decision : 28-07-1986

Acts Referred:
Wealth Tax Rules, 1957 — Rule 1BB

Citation : (1987) 163 ITR 586 : (1987) 32 TAXMAN 604

Hon'ble Judges : G.G. Sohani, J;B.B.L. Shrivastava, J

Bench : Division Bench

Advocate : R.C. Mukati, for the Appellant; Chafekar, for the Respondent

Judgement

Sohani, J.—By this reference u/s 27(1) of the Wealth-tax Act, 1957 (hereinafter referred to as "the Act"), the Income Tax Appellate Tribunal, Indore Bench, has referred the following question of law to this court for its opinion :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in directing the Wealth-tax Officer to determine the value of the residential house in question in accordance with the provisions of Rule 1BB of the Wealth-tax Rules, 1957, even though the said rule was enacted on April 11, 1979, and the assessment was completed after that date ?"

2. The material facts giving rise to this reference, briefly, are as follows :

The assessee owns a residential house at 21, Race Course Road, Indore. In the return of wealth filed by the assessee for the assessment year 1977-78, the assessee declared the value of the house as Rs. 3,25,000. Later on, a revised was filed by the assessee whereby the value of the house was declared as Rs. 58,450 by valuing the property according to Rule 1BB of the Wealth-tax Rules (hereinafter referred to as "the Rules"). The Wealth-tax Officer did not accept the revised valuation and valued the property at Rs. 3,25,000. The finding of the Wealth-tax Officer was upheld in this behalf by the Appellate Assistant Commissioner. On further appeal, the Tribunal held that though Rule 1BB of the

Rules had come into force with effect from April 1, 1979, the rule was procedural and was applicable to pending assessments. The Tribunal, therefore, set aside the order of assessment with regard to the aforesaid property and remanded the matter to the Wealth-tax Officer directing him that the value of the house in question be determined in accordance with the provisions of Rule 1BB of the Rules. Aggrieved by that order, the Revenue sought a reference and it is at the instance of the Revenue that the aforesaid question of law has been referred by the Tribunal to this court for its opinion.

3. Having heard learned counsel for the parties, we have come to the conclusion that this reference has to be answered in the affirmative and against the Revenue. It is no doubt true that Rule 1BB of the Rules has come into force with effect from April 1, 1979, but as held by a Division Bench of the Karnataka High Court in Commissioner of Wealth Tax, Karnataka, Bangalore Vs. Vidyavathi Kapur, , the rule is procedural. No decision to the contrary was brought to our notice. We respectfully agree with the view taken in Commissioner of Wealth Tax, Karnataka, Bangalore Vs. Vidyavathi Kapur, . It is not disputed that the assessment proceedings were pending when the amended Rule 1BB came into force. The Tribunal was, therefore, justified in setting aside the order passed by the Wealth-tax Officer and in remanding the case to the Wealth-tax Officer to determine the value of the house in accordance with the provisions of Rule 1BB of the Rules.

4. Our answer to the question referred to this court is, therefore, in the affirmative and against the Revenue. In the circumstances of the case, the parties shall bear their own costs of this reference.