
(2000) 11 MAD CK 0149

In the Madras High Court

Case No : Tax Case No. 780 of 1986 (Reference No. 485 of 1986)

Commissioner of Wealth-tax

APPELLANT

Vs

L.G. Balakrishnan

RESPONDENT

Date of Decision : 28-11-2000

Acts Referred:

Income Tax Act, 1961 — Section 210

Citation : (2001) 249 ITR 578

Hon'ble Judges : R. Jayasimha Babu, J; K. Gnanaprakasam, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; P.P.S. Janarthanaraja, for the Respondent

Judgement

K. Gnanaprakasam, J.—At the instance of the Revenue two questions were referred to this court. The first question is :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the advance tax payable u/s 210 of the Income Tax Act, 1961, should not be reduced from the amount of provision for taxation which is deductible as a liability while ascertaining the value of unquoted equity share for the purpose of rule 1D of the Wealth-tax Rules, 1957 ?"

2. The assessee is a Hindu undivided family holding shares in certain companies. Those shares were not quoted on the stock exchange. The assessee submitted that in his assessment for the assessment year 1981-82 before the Inspecting Assistant Commissioner (Wealth-tax) (Assessment) for computing the value of the aforesaid shares under rule 1D of the Wealth-tax Rules, 1957, the provision for taxation should not be reduced by the amount of advance tax payable by the companies concerned. The Inspecting Assistant Commissioner rejected the contention of the assessee. But, however, on appeal, the Commissioner of Wealth-tax (Appeals) accepted the case of the assessee. On appeal by the Department, the Income Tax Appellate Tribunal held that for computing the value of unquoted shares of a company under rule 1D of the Wealth-tax Rules, 1957,

the provision for taxation should not be reduced by the amount of the advance tax paid by the company concerned. Only under the said circumstances the reference was made to this court.

3. The learned advocate for the petitioner has cited the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, , wherein it was held that (headnote) ;

"Rule 1D of the Wealth-tax Rules, 1957. prescribing the break-up method for valuing unquoted equity shares of a company (other than an investment company or a managing" agency company) is perfectly valid and effective. Neither is it inconsistent with Section 7(1) of the Wealth-tax Act, 1957, nor does it travel beyond the purview of Section 7(1)."

4. It is further held that rule 1D has to be followed in valuing" each and eveiy case of unquoted equity shares of a company (other than investment company or a managing agency company). It is not a matter of choice or option. The rule-making authority has prescribed only one method for valuing the unquoted equity shares. If this were not to be followed, there is no other method prescribed by the rules.

5. The principles laid down by the apex court in the case cited supra are squarely applicable to the case on hand. Therefore, we also answer the reference against the assessee and in favour of the Revenue.

6. The next question which was referred to this court is as to whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding" that the amount standing to the credit of the assessee under the provisions of the compulsory deposit is not includible in the taxable wealth of the assessee ?

7. An identical question came up for the consideration of this court in the case of V.M. Rao (Individual) Vs. Commissioner of Wealth-tax, , wherein it was held that (headnote) :

"Under the Compulsory Deposit (income tax Payers) Scheme, 1974, the deposit in any year is repayable with interest thereon at any time after the expiry of five years from the end of the year in which the deposit had been made. The amount standing to the credit of the assessee in the compulsory deposit scheme account falls within the expression "property of every description movable or immovable" used in Section 2(e) of the Wealth-tax Act, 1957. Therefore, the amount standing to the credit of an assessee in the compulsory deposit account should be treated as an "asset" within the meaning of Section 2(e) of the Act."

8. The very same question is involved in this case. Therefore, the reference is answered against the assessee and in favour of the Revenue.