(2000) 07 DEL CK 0104

In the Delhi High Court

Case No : WT Reference No''s. 112-119 of 1982 6 July 2000 A.Y. 1971-72 to 1978-79

COMMISSIONER OF WEALTH TAX — APPELLANT

Vs

L.N. AHUJA — RESPONDENT

Date of Decision : 06-07-2000

Acts Referred:

Citation : (2000) 112 TAXMAN 436

Hon'ble Judges : Arijit Pasayat, C.J;D.K. Jain, J

Bench : Full Bench

Advocate : Sanjiv Khanna and Ajay Jha, for the Petitione, for the Appellant;

Judgement

Pasayat, C.J.

At the instance of the revenue, the following questions, in a hunch of eight references, which shall be governed by this common judgment, pertaining to the assessment years 1971-72 to 1978-79, have been referred by the Tribunal, Delhi Bench, u/s 27(1) of the Wealth Tax Act, 1957 (hereinafter referred to as `the Act'') for opinion of this court :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the Wealth Tax Officer had no valid authority u/s 7(1) of the Wealth Tax Act to estimate the market value of the property which is higher than Rs. 50,000 of the value declared by the assessed in his wealth-tax return ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in not holding that the market value of the properties was Rs. 3,60,000 ?"

2. In our opinion, since the second question is only consequential, answer to the first question would suffice.

3. Factual position, which is almost undisputed, is as follows:

The assessed had filed return for each of the assessment years, disclosing valuation of a particular immovable property at less than Rs. 50,000. The assessing officer determined the value at Rs. 3,60,000. In appeal, the assessed took the stand that in view of the clear stipulations in section 16A of the Act, the Wealth Tax Officer had no power to determine, without reference to the Valuation Officer, the market value of a property which is higher than Rs. 50,000 of the value declared by the assessed in his return. The Appellate Assistant Commissioner did not accept the plea. However, this stand was accepted by the Tribunal. On being moved by the revenue, the references have been made.

4. The learned counsel for the revenue with reference to section 7(1) of the Act, submits that section 16A cannot take away the effect of section 7(3). The aforesaid question has been examined by various High Courts including this court and in Sharbati Devi Jhalani Vs. Commissioner of Wealth Tax, Delhi-VII, and others, , it was held that in view of section 16A, the course adopted by the assessing officer in the present case is not permissible. Reference was also made to a Circular issued by the CBDT (Circular No. 96, dated 25-11 -1972) in support of the conclusion. Following the aforesaid decision, our answer to the first question referred is in the affirmative, i.e., in favor of the assessed and against the revenue, and in view of answer to the first question, the second question is of academic interest.

The references are, accordingly, disposed of.

