
(1985) 03 MAD CK 0017

In the Madras High Court

Case No : Tax Case Petition No. 450 of 1984

Commissioner of Wealth-tax

APPELLANT

Vs

M.K. Ananthakumar

RESPONDENT

Date of Decision : 19-03-1985

Acts Referred:

Wealth Tax Act, 1957 — Section 4(1)

Citation : (1986) 157 ITR 598

Hon'ble Judges : N.A. Sathar Sayeed, J;G. Ramanujam, J

Bench : Division Bench

Advocate : Nalini Chidambaram, for the Appellant; R. Meenakshisundaram, for the Respondent

Judgement

Ramanujam, J.—In this petition filed u/s 27 of the Wealth-tax Act, the Revenue seeks a direction from this court to the Tribunal to refer the

following two questions for the opinion of this court :

1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the inclusion of the sum of Rs.

1,40,000, being the amount transferred by the assessee to a trust for his would-be wife and later handed over by the trust to the lady, in the net

wealth of the assessee, was not warranted ?

2. Whether the Appellate Tribunal was right in its interpretation of the provisions of section 4(1)(a)(i) of the Wealth-tax Act, 1957, to the effect

that the words "to whom such assets have been transferred" would mean to the "spouse" indicated in the earlier part of the clause and not to the

individual or person concerned who subsequently became the "spouse" ?

2. However, we find that the questions sought to be referred are covered by the decision of the Supreme Court in Philip John Plasket Thomas Vs.

Commissioner of Income Tax Calcutta, . As a matter of fact, the Tribunal has followed the said judgment of the Supreme Court while rendering its judgment.

3. The dispute between the parties arises as regards the inclusion of the amount of Rs. 1,40,000 in the net wealth of the assessee. This amount is

claimed to have been transferred by the assessee to a trust for his would-be wife and later handed over by the trust to the lady who subsequently

became the assessee's wife. The assessee had earlier set up a private trust by a document dated November 24, 1969, designated as M. K.

Ananthakumar Marriage Benefit Trust whereby he settled absolutely on the trustee a sum of Rs. 15,000 in cash to hold the same for the objects

and purposes mentioned therein. Under clause 20, the trustees are enjoined at the time of marriage of the settlor to pay all the accumulated funds in

the trust, both the corpus and the income accrued thereon, to the bride and according to clause 22, if the marriage is not solemnised for any

unforeseen reason within a period of ten years from the date of the deed, the trustees have the power to apply the trust fund and the accumulations

thereon in any manner they deem fit. The settlor also transferred from time to time funds to the said trust and the total amount received from the

settlor from time to time came to Rs. 1,40,000. This amount was paid by the trustees to one Nagaraja Chetty, the father and guardian of the minor

by name Geethalakshmi on the assessee's marriage with her having been agreed upon on August 8, 1972, and this amount was invested on her

behalf in Karur Vysya Bank Ltd., Coimbatore. Subsequently, the marriage between the assessee and Geethalakshmi took place on August 28,

1972.

4. The Wealth-tax Officer in the assessment made for the year included the amount of Rs. 1,40,000 as hit by section 4(1)(a)(i) of the Wealth-tax

Act. The stand of the assessee was that since the gift took place before the marriage, section 4(1)(a)(i) was not attracted. The Tribunal on a

consideration of the provisions held that the decision of the Supreme Court in Philip John Plasket Thomas Vs. Commissioner of Income Tax

Calcutta, , applied to the facts and, therefore, the provision in section 4(1)(a)(i) will not stand attracted. According to the Tribunal, since the actual

payment of the amount to Geethalakshmi was before the marriage took place,

the case is governed by the decision of the Supreme Court cited above. Though the learned counsel for the Revenue tries to distinguish the said decision of the Supreme Court as having arisen under the Indian Income Tax Act, 1922, we find that though the said decision was rendered u/s 16(3) of the Indian Income Tax Act, 1922, the principle laid down in that case will apply to this case arising u/s 4(1)(a)(i) of the Wealth-tax Act. In that case, an assessee who had certain shares in a company was engaged to be married to one X and the engagement was announced on a particular day. Thereafter, an application was made to transfer the said shares in the name of the said X. There was also a deed of transfer which recited that the shares are being transferred in consideration of his forthcoming marriage with X. The transfer of shares was accepted by X and the company transferred the shares to X and registered X as the owner of the shares. Thereafter, the marriage was solemnised and the factum of marriage was communicated to the company and the name of the shareholder was changed in the books of the company to X as the wife of the assessee. The question was whether the income from the shares transferred which arose to the assessee's wife could be included in the total income of the assessee u/s 16(3) (a) (iii) of the Indian Income Tax Act, 1922. According to the Supreme Court, since the transfer of the shares took place immediately on the date of the application for transfer of the shares to the name of X and since the transfer was not postponed to the date of the marriage, section 16(3) (a) (iii) was not attracted as the transfer of the shares was made at the time when the transferee was not the assessee's wife. Though the principle of that decision squarely applies to the facts of this case, the learned counsel for the Revenue would say that in this case, the trust deed contemplates the handing over of the funds only after the marriage and, therefore, as per the terms of the trust deed, the funds will become the property of Geethalakshmi only after the marriage with the assessee and not before. But the fact remains that in this case, the funds were handed over by the trustee to Nagaraja Chetty, the father and guardian of the minor, Geethalakshmi, on August 8, 1972, itself about twenty days" before the actual marriage which took place on August 28, 1972. Thus, there has been the transfer of the funds to Geethalakshmi before she became the wife of the assessee. But it is no doubt

true that on the relevant date, Geethalakshmi held the funds as the wife of the assessee. But the relevant date to be taken account, as pointed out by the Supreme court, is the date when the transfer was made, not when the marriage actually took place. It is also not relevant to consider whether there is any violation of the terms of the trust deed. Even if there is any violation of the provisions of the trust deed as contended by the learned counsel for the Revenue, once the factum of payment is admitted to be before the marriage, then the legal consequence has to follow from such payment. Even if the payment was contrary to the terms of the trust deed, it is not possible to ignore the factum of payment before the marriage. In this view of the matter, since the questions appear to be covered by the decision of the Supreme Court cited supra, we are not inclined to direct the Tribunal to make a reference in this case. The tax case petition is accordingly dismissed. No costs.