courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 12/09/2026

(1987) 07 KL CK 0071

In the High Court Of Kerala

Case No : Income Tax R. No''s. 101 and 102 of 1982

Commissioner of Wealth-tax APPELLANT

Vs

Mrs. Sara Varghese RESPONDENT

Date of Decision : 13-07-1987

Acts Referred:
Wealth Tax Act, 1957 — Section 3

Citation : (1988) 170 ITR 436

Hon'ble Judges : K.S. Paripoornan, J;K. Sreedharan, J

Bench : Division Bench

Advocate : P.K.R. Menon, for the Appellant;

Judgement

K.S. Paripoornan, J.—At the instance of the Revenue, the following two questions of law have been referred for the decision of this court:

"1. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law and on facts in holding that ''agriculture itself is a business''; ''running of rubber estate is certainly business'' and are not the above findings wrong and perverse ?

2. Whether, on the facts and in the circumstances of the case, is not the assessee exigible to additional wealth-tax ?"

2. The respondent in both these cases is an assessee to wealth-tax. She is an individual. She owns 32 acres of land. Out of the above 32 acres, 26 acres are covered by rubber plantations. In the other 6 acres, there are trees like mango, coconut, etc. There was also a building used as residence and as an office of the assessee. We are concerned with the assessment years 1973-74 and 1974-75. The Government of India by notification dated February 6, 1973, included Edappally within the limits of the Cochin Corporation as urban land. On this basis, the Wealth-tax Officer levied additional wealth-tax on these lands. The respondent-assessee contended that wealth-tax was not leviable in respect of these assets since agriculture itself is business. It was claimed that the entire

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/commissioner-of-wealth-tax-...

land in question is taken up by that business and so it is a "business asset". This plea was raised before the Appellate Tribunal. The Appellate Tribunal relied on the decision of the Punjab and Haryana High Court in Commissioner of Wealth-tax Vs. Hari Singh, and held that running of a rubber estate is certainly a business and that the assessee would be entitled to exemption from payment of additional wealth-tax in respect of the same. On a motion by the Commissioner of Wealth-tax, the above questions of law have been referred for the decision of this court.

3. We heard counsel for the Revenue, Mr. Menon. The respondent was not represented before us. As per Section 3 read with the Schedule, Part I, Para. A, Rule 2 read with Para. B, Rule 1 of Part I, the net wealth of a person includes the value of any asset being building or land, or any right in such building or land situated in an urban area (referred to as urban asset), other than "business premises" as it stood then. The short question that arises for consideration is, whether the agricultural land and building in the urban land (urban asset) will be "business premises" for the purpose of Para. B, Rule 1 of Part I and Rule 2 of Para. A, Part I of the First Schedule to the Wealth-tax Act ? The Supreme Court in Konduri Buchirajalingam v. State of Hyderabad [1958] 9 STC 397 at page 401 held that a producer of crops may engage in the business of selling or supplying and become a dealer for the purpose of the Sales Tax Act. Earlier, the Bombay High Court in Girdharilal Jiwanlal v. Assistant Commissioner of Sales Tax [1957] 8 STC 732 held that the cultivation of land may be undertaken with the object or purpose of carrying on the business of selling and supplying agricultural produce and in that case, the person concerned will be a dealer for the purpose of the Sales Tax Act. The word "business" has not been denned in the Wealth-tax Act. In such circumstances, what is the meaning to be given to that word is the primary question. In Manmadhan v. Krishnappan Unni [1985] KLT 670, a Division Bench of this court, to which one of us was a party, was construing the word "business" in the Government Servants'' Conduct Rules. It was observed at page 672 :

"The word ''business'' has not been denned in the Government Servants'' Conduct Rules. We have to understand the word in the general sense. For that, it is permissible to look into the dictionary meaning of the term-- Commissioner of Income Tax, West Bengal, Calcutta Vs. Raja Benoy Kumar Sahas Roy, . As stated in Halsbury''s Laws of England, Third Edition, Vol. 38, page 10, ''Business is a wider term than, and not synonymous with, trade ; and means practically anything which is an occupation as distinguished from a pleasure''. In Town Investments Ltd. v. Department of Environment [1977] 1 All ER 813, Lord Diplock observed :

The word ''business'' is an etymological chameleon ; it suits its meaning to the context in which it is found. It is not a term of legal art and its dictionary meanings, as Lindley L.J. pointed out in Rolls v. Miller [1884] 27 Ch D 71, embrace '' almost anything which is an occupation, as distinguished from a

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/commissioner-of-wealth-tax-…

pleasure--anything which is an occupation or a duty which requires attention is a business......''

Webster''s Third New International Dictionary, Volume I, page 302, contains the various shades of meaning of the word '' business ''. A few of them are:

''Purposeful activity; activity directed towards some end; an activity engaged in a normal, logical, or inevitable and usually extending over a considerable period of time ; as usually commercial or mercantile activity customarily engaged in as a means of livelihood and typically involving some independence of judgment and power of decision ; transactions, dealings, or intercourse of any nature ; serious activity that requires time and effort and usually the avoidance of distracting influences; particular field of endeavour.''

There are other shades of meanings as well. We should remember that the meaning of the word ''business'' depends upon the context and the statute in which it occurs. In mercantile statutes or fiscal statutes it may mean one thing; but in non-mercantile statutes the same meaning cannot fit in."

4. In Commissioner of Wealth-tax Vs. Hari Singh, the Punjab and Haryana High Court held that agricultural operations involve carrying on "systematic" entrepreneurial activity with the help of capital and labour with a view to earn profits and the element of risk not being absent from such operations, agricultural operations will fall within the category of business. In this view, it was held that where agricultural operations are carried on in urban land, the said land would fall within the definition of the expression "business premises" as defined in Rule 1(i), Para. B, Part I, of the Schedule to the Wealth-tax Act, 1957, and would be entitled to exemption from the charge of additional wealth-tax on urban assets under Para. A(2). Even later in Commissioner of Wealth-tax Vs. Smt. Devinder Kaur, the said High Court took the same view. Commissioner of Wealth-tax Vs. Smt. Devinder Kaur, was taken in appeal by way of SLP before the Supreme Court (SLPs. Nos. 5653 and 5655 of 1981). The Supreme Court rejected the Special Leave Petitions. It is so seen from [1983] 144 ITR 12. We concur with the decision of the Punjab and Haryana High Court in Commissioner of Wealth-tax Vs. Hari Singh, The Appellate Tribunal, following the said decision, held that the running of the rubber estate is certainly a business and in view of the said decision, the assessee would be entitled to exemption in respect of additional wealth-tax. In the light of the above discussion, the said decision is justified in law.

5. We, therefore, answer question No. 1 referred to us in the affirmative, against the Revenue and in favour of the assessee. We answer question No. 2 in the negative, against the Revenue and in favour of the assessee.

6. A copy of this judgment under the seal of this court and the signature of the Registrar shall be sent to the Income Tax Appellate Tribunal, Cochin Bench.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/commissioner-of-wealth-tax-…