(1998) 11 MAD CK 0177

In the Madras High Court

Case No : Tax Case No. 684 of 1988 (Reference No. 523 of 1988)

Commissioner of Wealth-tax APPELLANT

Vs

N. Nazeerudeen RESPONDENT

Date of Decision : 28-11-1998

Acts Referred:

Citation : (2000) 244 ITR 233

Hon'ble Judges : R. Jayasimha Babu, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; None, for the Respondent

Judgement

R. Jayasimha Babu, J.—The question referred to us at the instance of the Revenue, relating to the assessment year 1977-78, arising out of the provisions of the Wealth-tax Act is as to "whether, on the facts and in the circumstances of the case, the sum of Rs. 22,68,000 is includible in the net wealth of the assessee as an asset belonging to him as on the valuation date March 31, 1977, relevant for the assessment year 1977-78 under the Wealth-tax Act, 1957 ?"

2. The amount referred to in the question is the value of the lottery prize, to which the assessee had made a claim, but was disputed by one Annamalai, who also claimed to be entitled to that prize. The litigation which commenced at the sub-court at Vellore ended in favour of the assessee at the level of that court. An appeal having been preferred by Annamalai, the matter was taken to the High Court and by the interim orders made by this court, the assessee was allowed to withdraw one half of the amount against the bank guarantee on condition that the assessee in the event of failing before the High Court will be liable to refund the amount drawn and in case the appellant fails to do so, the bank will be liable to make the payment.

3. In the circumstances, the Tribunal has rightly held that the amount had not accrued to the assessee in the relevant year. That decision of the Tribunal cannot be faulted. The Supreme Court in the case of Commissioner of Income Tax, West

Bengal-II, Calcutta Vs. Hindustan Housing and Land Development Trust Ltd., , held that the amount of additional compensation awarded to the owner of the land, for the compulsory acquisition of the land, which amount had been allowed to be drawn against the bank guarantee pending the decision in appeal, cannot be regarded as having accrued to the assessee even before the final decision.

4. The interest of the Revenue is amply safeguarded by the undertaking which the assessee had given before the Commissioner of Income Tax (Appeals) on January 17, 1985, to offer for Income Tax and wealth-tax assessments as and when the lottery amount was received by him after the final orders of the court.

5. We answer the question referred to us in favour of the assessee and against the Revenue. No costs.

