(1999) 09 MAD CK 0058

In the Madras High Court

Case No : Tax Case No. 965 of 1992 (Reference No. 511 of 1992)

Commissioner of Wealth-tax APPELLANT

Vs

P.M. Itoop RESPONDENT

Date of Decision : 21-09-1999

Acts Referred:

Wealth Tax Act, 1957 — Section 7
Wealth Tax Rules, 1957 — Rule 1BB

Citation : (2000) 243 ITR 232

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

Bench : Division Bench

Advocate : J. Naresh Kumar, for the Appellant; G. Ashok Pathy, for the Respondent

Judgement

R. Jayasimha Babu, J.—We find no substance in this reference. In the case of Commissioner of Wealth Tax, Meerut Vs. Sharvan Kumar

Swarup and Sons, , it has been held that the rules providing for method of valuation under the Wealth-tax Act are not substantive but procedural

law and that the provisions of the amended rules are applicable to all pending proceedings. The court, inter alia, held (headnote) :

Rule 1BB of the Wealth-tax Rules, 1957, which came into force, on April 1, 1979, prescribing the method for valuing a house wholly or mainly

used for residential purposes, merely provides a choice amongst well-known and well-settled modes of valuation. Even in the absence of Rule

1BB, it would not have been objectionable, nor would there have been any legal impediment, to adopt the mode of valuation embodied in Rule

1BB, namely, the method of capitalisation of income on a number of years'' purchase value.

2. The court has also observed that procedural law, generally speaking, is applicable to pending cases and that no suitor can be said to have a

vested right in procedure.

3. Learned counsel for the Revenue, however, sought to contend that notwithstanding the judgment of the Supreme Court, the valuation of

property for the purpose of wealth-tax for the assessment years preceding April 1, 1989, cannot be made by applying the rules which came to be

incorporated on April 1, 1989, when Schedule III was inserted in the Wealth-tax Act by the Direct Tax Laws Amendment Act. We deprecate the

attempt on the part of the Revenue to reagitate matters which are settled by the law declared by the Supreme Court. Whatever justification the

Revenue may have in seeking to advance contradictory argument before different High Courts in the country, there is no justification whatever for

trying to canvass a proposition which runs counter to the law declared by the Supreme Court and to which decision, the Revenue is a party.

4. The question involved herein is as to whether the Tribunal and Commissioner are right in holding that the Income Tax Officer was in error in not

adopting the method of valuation provided for in Schedule III to the Wealth-tax Act for the assessment year 1984-85. The assessment had not

become final when the Wealth-tax Act was amended in the year 1989, as the appeal against the order of assessment was pending. Though the

assessment was made on March 13, 1989, the order of assessment was open to challenge and the assessment order was capable of being

examined in the light of the procedural law that prevailed at the time, the appeal was considered. The Commissioner of Income Tax, was therefore,

right in holding that the property, namely, residential house, of the asses-see at No. 12, North Gopalapuram, Chennai, should be valued by

applying the amended Rule 1BB found in Schedule III to the Wealth-tax Act, which rule was introduced with effect from April 1, 1989. The

Tribunal was equally right in affirming the order of the Commissioner.

5. The question referred to us, namely, ""whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding

that Schedule III to the Wealth-tax Act is applicable to the facts of the case for the assessment year 1984-85 and in directing the Wealth-tax

Officer to determine accordingly the value of the immovable properties held by the assessee ?

6. is, therefore, answered in favour of the assessee and against the Revenue.