

(2005) 01 P&H CK 0145
In the Punjab And Haryana At Chandigarh
Case No : WT Appeal No. 2 of 2002

Commissioner of Wealth Tax

APPELLANT

Vs

Prince Raninder Singh Trust

RESPONDENT

Date of Decision : 31-01-2005

Acts Referred:

Wealth Tax Act, 1957 — Section 18(1), 27A
Wealth Tax Rules, 1957 — Rule 1BB

Citation : (2005) 197 CTR 271 : (2008) 296 ITR 668 : (2005) 146 TAXMAN 609

Hon'ble Judges : Satish Kumar Mittal, J; N.K. Sud, J

Bench : Division Bench

Advocate : N.L. Sharda, for the Appellant; Arun Walia, for the Respondent

Judgement

N.K. Sud, J.—Revenue has filed this appeal u/s 27A of the WT Act (for short "the Act") against the order of the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short "the Tribunal"), dt. 6th June, 2001, whereby the appeal of the Revenue has been dismissed.

2. For the asst. yr. 1984-85, the assessee had filed its return declaring negative wealth of Rs. 18,14,000 which was subsequently revised to negative wealth of Rs. 2,94,000. The AO completed the assessment on 1st March, 1989 determining net wealth at Rs. 1,25,20,000 which after giving the appeal effect was finally assessed at Rs. 72,56,000. The main addition in the wealth after giving appeal effect related to the property at 9, Tees January Marg, New Delhi. The assessee owned this property and the value thereof was declared under Rule 1BB of the WT Rules (for short the "Rules") as "the same was used for residential purposes. However, during accounting period under reference, the assessee entered into a partnership with M/s Little Rock Trading & Investment Co. Ltd. by a partnership deed dt. 21st Aug., 1983. Their respective share in the said partnership firm was 50 per cent each. The assessee contributed its house as capital whereas the other party contributed Rs. 75,00,000 by way of its capital. Subsequently, the assessee had withdrawn a sum of Rs. 55 lakhs from the newly constituted

partnership firm. Due to disputes amongst the partners, the matter was referred to the arbitrator, who announced his award on 15th Feb., 1984 which became final on 25th Sept., 1984 when it was registered with the Calcutta High Court. Since the award was registered on 25th Sept., 1984, the assessee was under the impression that it continued to be the legal owner of the property. Therefore, the value of the same was declared in the return of wealth at Rs. 2,36,000 under Rule 1BB. However, the AO adopted the value of the property at Rs. 75 lakhs which was the amount which the arbitrator had awarded to the assessee in lieu of surrendering all its rights and title in favour of M/s Little Rock Trading & Investment Co. Ltd. In this manner, the AO made an addition of Rs. 72.64 lakhs in respect of the value of the property which after giving appeal effect was reduced to Rs. 72.56 lakhs. In the return of wealth, the assessee had claimed liability of Rs. 55 lakhs in respect of the amount withdrawn from the firm because the other partner had insisted on restoration of this amount. This liability was not allowed by the AO.

3. At the time of completing the assessment, the AO also initiated penalty proceedings u/s 18(1)(c) of the Act requiring the assessee to show cause as to why penalty for concealment of wealth and for furnishing inaccurate particulars be not imposed. The assessee in its reply submitted that it had disclosed all the material facts necessary for its assessment and had not concealed any particulars of wealth. The AO, however, was not satisfied with the explanation and imposed a penalty of Rs. 3,01,471 by holding that the assessee had concealed its wealth and furnished inaccurate particulars in respect thereof.

4. Aggrieved by the said order, the assessee preferred an appeal before the Commissioner of Wealth-tax (Appeals) [for short "the CWT(A)"] contending that the items in respect of which the AO had imposed the penalty related to valuation of the property which was duly disclosed in return of wealth. It was claimed that the return was filed under a bona fide belief that since the award was registered on 25th Sept., 1984 with the Calcutta High Court, it became final on that date and, therefore, the assessee continued to be the legal owner of the property. The assessee, therefore, maintained that it was under this belief the valuation of this house had been declared under Rule 1BB of the Rules. The assessee also claimed to have shown its liability for Rs. 55 lakhs withdrawn from the firm. The CWT(A) accepted this explanation and deleted the penalty imposed by the AO.

5. Aggrieved by the aforesaid order of the CWT(A), the Revenue filed the appeal before the Tribunal which has been dismissed by the impugned order. The Tribunal has observed that since the assessee had declared the value of the property in the return of wealth under a belief that it continued to be its legal owner, therefore, it could not be charged with having concealed the particulars of its wealth. The Tribunal has also found that the assessee had disclosed the full facts relating to the amount of Rs. 55 lakhs withdrawn from the firm and had claimed it as liability on account of reason that the award given by the arbitrator

had not yet become final.

The findings recorded by the Tribunal are pure findings of fact and do not give rise to any substantial question of law for interference by this Court.

Accordingly, the appeal is dismissed. No costs.