(1995) 10 AP CK 0012

In the Andhra Pradesh High Court

Case No : WTC No. 11 of 1990

Commissioner of Wealth Tax	APPELLANT
Vs	
Rahamatunnisa Begum	RESPONDENT

Date of Decision : 19-10-1995

Acts Referred:

Citation : (1996) 136 CTR 326

Hon'ble Judges : P. Venkatarama Reddi, J;P. Ramakrishnam Raju, J

Bench : Division Bench

Advocate : S.R. Ashok, for the Appellant; Mahaboob Mustafa Firdas, for the Respondent

Judgement

P. Venkatarama Reddy, J.—This is an application filed by the CWT under s. 27(3) of the WT Act to refer the following questions of law for decision of this Court :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal is correct in law in confirming the order of the CWT(A), especially when the CWT(A) did not follow the procedure prescribed under s. 23(3A) of the WT Act, which casts an obligation on the CWT(A) to give an opportunity of being heard to the Valuation Officer who gave report under s. 16A of the Act ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in not giving an opportunity of being heard to the Valuation Officer who submitted a report under s. 16A as required under s. 24(5) of the WT Act ?

3. Whether, on the facts and in the circumstances of the case, the finding arrived at by the Tribunal is not vitiated in law owing to failure in complying with the statutory provisions of the Act ?

4. Whether, on the facts and in the circumstances of the case, the Tribunal is correct in confirming the direction of the CWT(A) given to the WTO to recompute the assessee''s beneficial interest with reference to the principal value of the corpus at Rs. 16.20 crores as against Rs. 32.43 crores valued by the Valuation

Officer under s. 16A of the WT Act ?"

2. The respondent herein is a beneficiary of a trust known as "HEH the Nizam''s Jewellery Trust''. For the asst. yr. 1981-82, the trustees filed a return of wealth on behalf of the assessee, the respondent herein, declaring the value of her proportionate share in the corpus at Rs. 11,37,073 and offering the same for assessment under the WT Act. The WTO thought that the value furnished by the trustees needed an upward revision. Based on the valuation of a Departmental Valuer, the WTO fixed the wealth representing the assessee''s interest in the trust at Rs. 12,35,006. The respondent then filed an appeal before the CWT(A). Inter alia, the respondent raised an objection against refusal of exemption under s. 5(1) of the Act. This contention was negatived by the appellate authority. However, as regards valuation, the CWT(A) purporting to follow his own orders in certain connected cases directed the entire corpus of the jewellery to be valued at Rs. 16.20 crores, instead of the valuation of Rs. 32.43 crores adopted by the WTO. Aggrieved by this part of the order of the CWT(A), the Department filed an appeal to the Tribunal. The Tribunal rejected the Revenue''s contention purporting to follow "several of the orders of the beneficiaries of the Nizam''s Trust. However, the details of the decision rendered in such cases have not been spelt out. Not even a reference was given to the particular case in which such valuation was upheld. We are unable to know the basis on which the CWT(A) reduced the valuation made by the Departmental Valuer. The learned counsel for the respondent has contended that the question of valuation is a question of fact and he relied on an observation of S. P. Sinha, J. in the Full Bench decision of the Patna High Court in Maharaj Kumar Kamal Singh Vs. Commissioner of Wealth Tax, . The learned counsel for the respondent is not in a position to clarify the basis on which a substantial reduction was made rejecting the Departmental Valuer''s estimation. Moreover, admittedly in this case, the Departmental Valuer [sic - CWT(A)] had not followed the procedure prescribed under s. 23(3A) of the WT Act which enjoins on the appellate authority to give an opportunity of hearing to the Valuation Officer. That apart, it cannot be stated as a universal proposition of law that a question of valuation is always a question of fact. An arbitrary valuation by taking into account irrelevant factors or by [(1992) 84 ITR 240 (supra)] eschewing from consideration relevant factors or a valuation based on wild guess work rather than proper data could be found fault with as a legal error and not merely as a factual error. Whether or not the valuation made by Departmental Valuer was rejected on relevant grounds and whether the estimation made by the AAC is based on accepted principles is a question of law to be considered. In this view of the matter, we consider it just and appropriate to direct the questions 1 and 4 to be referred for the opinion of the High Court.

3. The WTC is accordingly allowed. No costs.

