(1995) 11 MP CK 0025

In the Madhya Pradesh High Court

Case No : M.C.C. No''s. 14 to 20 of 1987

Commissioner of Wealth Tax — APPELLANT

Vs

Rajendra Singh — RESPONDENT

Date of Decision : 13-11-1995

Acts Referred:
Wealth Tax Act, 1957 — Section 18, 18(1), 27

Citation : (1996) 132 CTR 356 : (1996) 217 ITR 876

Hon'ble Judges : A.K. Mathur, Acting C.J.;Sreesh Chandra Pandey, J

Bench : Division Bench

Advocate : V.K. Tankha, for the Appellant; B.S. Malhotra, for the Respondent

Judgement

A.K. Mathur, Actg. C.J.

1. As all these cases involve the same question of law against the same assessee, therefore, they are disposed of by a common order.

2. It may be relevant to mention here that for the assessment years 1966-67 and 1973-74, the assessee was found to have concealed wealth and a penalty was levied in respect of both the assessment years by the Wealth-tax Officer. Aggrieved against this, the assessee preferred an appeal and the appellate authority found the explanation of the assessee satisfactory and set aside the penalty. Against this, an appeal was preferred before the Tribunal by the Department and the appeal was dismissed by a detailed order dated October 26, 1983. Thereafter, the Department approached the Tribunal for making a reference u/s 27 of the Wealth-tax Act, 1957, and the reference was made by the Tribunal and the following question was referred by the Tribunal for answer by this court :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in coming to the conclusion that no penalty u/s 18(1)(c) of the Wealth-tax Act is imposable on the assessee for the assessment years 1966-67 and 1973-74 ?"

3. This question was answered against the Revenue and in favour of the assessee.

4. Now, all these references have been made at the instance of the Revenue and these cases relate to the assessment years prior to 1973-74 and subsequent years also. In all these cases, the appeals were preferred against the orders passed by the Commissioner of Wealth-tax before the Tribunal by the Revenue and the Tribunal dismissed all these appeals, vide decision dated October 26, 1982. Then again, the Department moved the Tribunal for making a reference before this court and the Tribunal rejected the same. Hence, the Department approached this court for calling for a reference from the Tribunal, and the following question has been framed by the Department for calling for a reference from the Tribunal :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in coming to the conclusion that no penalty u/s 18(1)(c) of the Wealth-tax Act is imposable on the assessee ?"

5. We have heard learned counsel and perused the record. Since a similar question has already been answered by this court on the same facts, therefore, it would be a futile exercise now to enter into that controversy once again when the Tribunal has already taken a view that the assessee has not concealed the wealth and has satisfactorily explained. Therefore, the Wealth-tax Commissioner set aside the order and the order was confirmed by the Tribunal and when the matter came up in reference before this court, this court also answered it against the Revenue and in favour of the assessee and held that no question of law arises in the matter as the matter was decided on the facts. Hence, a similar situation arises in the present cases also and we are of the opinion that no question of law arises in these cases because whether the assessee has explained the facts satisfactorily or not is essentially a question of fact. The Wealth-tax Commissioner was satisfied on the facts explained by the assessee and there was no question of concealment and the same was confirmed by the Tribunal. This court has held in order in M. C. C. No. 205 of 1985 that no question of law arises and adopting the same reasoning, we hold that no question of law arises in the present cases. The Division Bench of this court in M. C. C. No. 205 of 1985 observed as under :

"We think the Tribunal has rightly held that it had essentially recorded a finding of fact on the basis of which the provisions of Section 18(1)(c) of the Act could not be said to have been attracted. No question of law, therefore, can be said to arise out of the appellate order of the Tribunal. We are, therefore, constrained to reject this application."

6. Hence, all these reference applications for calling reference from the Revenue are rejected in terms of the aforesaid order passed in M. C. C. No. 205 of 1985.