

(1989) 11 MP CK 0015

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 205 of 1985

Commissioner of Wealth Tax

APPELLANT

Vs

Sardar Rajendra Singh

RESPONDENT

Date of Decision : 15-11-1989

Acts Referred:

Wealth Tax Act, 1957 — Section 18(1), 27(3), 4(1)

Citation : (1990) 186 ITR 584

Hon'ble Judges : S.K Jha, C.J;K.M. Agrawal, J

Bench : Division Bench

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

Final Decision : Dismissed

Judgement

S.K. Jha, C.J.—This is an application u/s 27(3) of the Wealth-tax Act, 1957. The Commissioner of Wealth-tax seeks a reference on the statement of the case to be filed on the question as to :

"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 ?"

2. In the course of the wealth-tax assessment proceedings for the assessment years 1966-67 and 1973-74 in the case of the assessee, Sardar Rajendrasingh, a leading advocate of Jabalpur, the Wealth-tax Officer found that the assessee had not included the following assets in his net wealth :

1966-67

Credit balance in wife's name in Allahabad Bank

Rs. 6,976

Jewellery

Rs. 8,000

Total

Rs. 14,976

3. With regard to the year 1973-74, the corresponding amounts were Rs. 9,963 and Rs. 10,000, the total being Rs. 19,963. The Wealth-tax Officer included the amounts in computing the net wealth of the assessee for the two assessment years. He also initiated penalty proceedings u/s 18(1)(c) of the Wealth-tax Act for concealment of particulars of assets or for furnishing inaccurate particulars of such assets. The Assessing Officer, while computing the assessment of the net wealth for the two years in question, computed the aforesaid amounts in the respective years as being taxable wealth of the assessee. He also held that penalty proceedings u/s 18(1)(c) of the Act were attracted for the assessment years. He, therefore, imposed a penalty of Rs. 14,976 for the year 1966-67 and Rs. 19,963 for the assessment year 1973-74. The assessee went up in appeal before the Appellate Assistant Commissioner and contested the order imposing penalty stating that the assets in question belonged to his wife and could not be said to be the wealth of the assessee. The first appellate court came to the conclusion that for the assessment years 1966-67 and 1973-74, the property at Bombay belonged to the assessee, although it was held in the name of his wife who was only a benamidar. It was further held that there was certainly a reasonable presumption that, by not disclosing the assets in question in his return of net wealth, the assessee had concealed the particulars of his wealth and made himself liable to penalty u/s 18(1)(c) of the Wealth-tax Act. With regard to the jewellery in question which belonged to the assessee's deceased wife, the Appellate Assistant Commissioner expressed the view that the assessee was the absolute owner of the said assets being the legal heir of the wife who died in the year 1952. He rejected the submission that the jewellery was given to his married daughter, Smt, Amrita Bogra, after the death of his wife.

4. Before the Tribunal, on further appeal by the assessee, it was submitted that both the Wealth-tax Officer and the Appellate Assistant Commissioner overlooked the fact that the assessee had been disclosing his Bombay property in his return of net wealth for the assessment years starting from the year in which the property was acquired in the name of his wife up to and including the assessment year 1970-71 and it was only after the assessee had gifted the amount of Rs. 50,000 by a gift deed dated October 26, 1970, that the said property was not included in his returns. The gift-tax assessment on the aforesaid gift was also completed on December 13, 1971. It was contended on behalf of the assessee that he was under the bona fide belief that though the income from the property transferred by him to his wife might be included in his income under the deeming legal provision, incorporated in Section 64 of the Income Tax Act, the deposits from such income in the savings account of the assessee's wife could not be included in his net wealth, nor for that matter, could the interest on such savings account be included in his income for the purpose of

Income Tax assessments. It was further argued that the Tribunal's acceptance or non-acceptance of the assessee's claim did not lead to any inference, let alone to the conclusion that the assessee had concealed the particulars of his wealth or furnished inaccurate particulars of such wealth.

5. With regard to non-inclusion of jewellery belonging to the deceased wife of the assessee, it has been urged that the Appellate Assistant Commissioner and the Wealth-tax Officer erroneously attributed the ownership of the jewellery to the assessee, since the assessee had categorically stated before the Revenue authorities that the jewellery in question was handed over by him to his married daughter after the death of his wife.

6. Be that as it may, the Tribunal, on a consideration of all the relevant facts and material on record, came to the conclusion that the assessee had declared under the head "Immovable property" :

"Property at Bombay in wife's name, Smt, Dhan Rajendrasingh, Rs, 66,000."

7. This went to show that the assessee expected to be assessed in respect of the aforesaid asset u/s 4(1) of the Wealth-tax Act, but not in respect of the asset representing the accumulation in the bank account in the name of the assessee's wife of the income from the said property and interest on such accumulated income also lying in the same savings bank account. So also with regard to the assessment year 1973-74, the Tribunal further came to the conclusion that merely because eventually the claim of the assessee had been negated by the Tribunal, it did not ipso facto render the assessee's action to exclude the property in question, much less of the accumulated income from the said property from his statement of net wealth, an attempt at concealment or furnishing of inaccurate particulars of wealth within the meaning of Section 18(1) (c) of the Wealth-tax Act.

8. In so far as the jewellery was concerned, the finding of the Tribunal was that it was the stridhan property of the assessee's wife who had admittedly died intestate and the jewellery passed and was handed over to Smt. Amrita Bogra, the married daughter of the deceased wife of the assessee, to whom the jewellery had passed by succession and the assessee did not have any right to the said jewellery. The Tribunal ultimately came to the conclusion as under ;

"It is, therefore, immaterial whether he disclosed the value of such jewellery in his returns of net wealth, claiming it to be exempt or not declared at all. In the instant case, the assessee has been claiming the said jewellery to have been handed over by him to his daughter, Smt. Amrita Bogra, after the death of his wife, Smt. Awtar Kaur. It does not, therefore, stand to reason that the lower authorities should have alleged concealment on the part of the assessee or furnishing of inaccurate particulars of wealth in respect of the said jewellery. Thus, on both points, the assessee is not, in our view, liable to penalty u/s 18(1) (c)."

9. While rejecting the application for reference u/s 27(1) of the Wealth-tax Act, 1957, the Tribunal recorded the following conclusion :

"The upshot of the above discussion is that the assessee had declared his wife's bank account in the revised statement of wealth for the assessment year 1966-67 and the assessment year 1973-74 and, the Tribunal has already held that the said bank account stood gifted by the assessee to his wife. In this background, the Tribunal has cancelled the penalties u/s 271(1)(c) and this essentially is a finding of fact in the context of the facts mentioned above."

10. The finding that the jewellery of the deceased wife of the assessee went to his married daughter is supported by the evidence on record. The cancellation of penalty did not entail any question of law.

11. 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.

12. The application is, accordingly, rejected. We, however, make no order as to costs.