
(1993) 11 RAJ CK 0010

In the Rajasthan High Court

Case No : Wealth-tax Reference No. 72 of 1983

Commissioner of Wealth-tax

APPELLANT

Vs

Seth Gokul Dass Pradeep Kumar (No. 2)

RESPONDENT

Date of Decision : 09-11-1993

Acts Referred:

Citation : (1994) 210 ITR 403

Hon'ble Judges : K.C. Agrawal, C.J;V.K. Singhal, J

Bench : Division Bench

Advocate : G.S. Bafna, for the Appellant; N.M. Ranka, for the Respondent

Judgement

V.K. Singhal, J.—The Income Tax Appellate Tribunal has referred the following questions of law arising out of its order dated February 10, 1982, in respect of the assessment years 1974-75 and 1975-76, u/s 27(1) of the Wealth-tax Act, 1957 :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in upholding that the order of the Commissioner of Wealth-tax (Appeals) holding that the Wealth-tax Officer should have made necessary adjustments in respect of outstanding dues of Rs. 59,000 and Rs. 1,11,048 which could not be realised by the firm, Messrs. Raichur, while working out the value of the assessee's share in the said firm and accordingly allowing relief of Rs. 85,024 (Rs. 29,500 + Rs. 55,424) equivalent to 50 per cent. share of the assessee in the firm ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that gratuity liability is an ascertained liability and, therefore, the same should be deducted while determining the market value of shares of Messrs. Krishna Mills Ltd., Beawar ?"

2. The relevant facts for determining question No. 1 above are that the assessee-Hindu undivided family was a partner in Messrs. Thakur Dass Khinvraj having 50 per cent. shares. The said firm had to realise a sum of Rs. 2,50,000 from Messrs.

Radha Krishna Trading Company (P.) Ltd., and Rs. 59,000 from Messrs. S. Vappa, Raichur. Having no hope to realise the said debts, the value of the share of the assessee in the firm was worked out by reducing the said debts which were considered as bad debts. The claim of the firm in respect of the amount of Rs. 59,000 was allowed in the assessment year 1976-77 and out of the outstanding dues of Rs. 2,50,000 from Messrs. Radha Krishna Trading Co. Pvt. Ltd., a sum of Rs. 1,39,000 was realised and the balance amount of Rs. 1,11,000 was allowed as bad debt in the assessment year 1976-77. The Commissioner of Wealth-tax (Appeals) was of the view that the market value of the outstanding dues was nil and, therefore, the Wealth-tax Officer was directed to reduce the said figure while determining the net wealth of the assessee.

3. With regard to the deduction of the gratuity liability, while determining the value of shares of Krishna Mills, Beawar, it was worked out in accordance with the Wealth-tax Rules and the adjustment for liability shown in respect of gratuity being not an ascertained liability and only a contingent liability was not reduced.

4. In H.H. Shri Natwarsinghji Vs. Commissioner of Wealth Tax, the Gujarat High Court has held that a debt which has become irrecoverable cannot be included in the net wealth and it is not necessary that it should be written off in the books of account. The subsequent events were also taken into consideration. We need not go into the question as to whether the subsequent events by which it could be considered that the debt has become irrecoverable would be taken or not. Admittedly, in the present case, a finding has been recorded in favour of the assessee that the outstanding dues could not be realised and the value thereof has to be taken keeping in view the possibility of recovery. The principle for allowing bad debts under the Income Tax Act and the valuation of a debt, under the Wealth-tax Act, cannot be considered in the sense that because under the Income Tax Act, the debts were allowed as bad debt in the assessment year 1976-77 and, therefore, in the earlier years the debts cannot be considered as bad debt. The debts may not be considered as bad debt, but if the value of the debt on the valuation date was less than the book value, then the Wealth-tax Officer has to proceed on the basis of such valuation of the debt. There may be a case where the entire debt does not have any value because it could not be recovered or a dispute exists of the nature reducing its value to nil or for such like circumstances. The debt may have a reducing value as well besides the nil value and in accordance with the provisions of Section 7 of the Wealth-tax Act, the market value of the asset has to be determined. Since a finding has been recorded by the Tribunal in favour of the assessee which cannot be considered to be unreasonable, we are of the view that the Tribunal was justified in holding that the order of the Commissioner of Income Tax (Appeals) wherein he has held that the Wealth-tax Officer has made necessary adjustments in respect of outstanding dues of Rs. 59,000 and Rs. 1,11,048 which could not be realised by the firm, Messrs. Thakurdas Khinvraj Rathi, Beawar, from the parties, Messrs. Radha Krishna Trading Co. (P.) Ltd., and Messrs. S. Vappa, Raichur, while working out the value of the assessee's share in the said firm and accordingly allowing

relief of Rs. 85,024, i.e., equivalent to the 50 per cent. share of the assessee in the firm.

5. So far as the second question is concerned, the said question is covered by the decision of this court in Seth Mukund Das Rathi Vs. Commissioner of Wealth-tax, and on the basis of the said judgment, it is held that the gratuity liability is an unascertained liability and, therefore, the same should not be deducted while determining the market value of the shares of Krishna Mills, Beawar.

6. Accordingly, the first question is answered in favour of the assessee and the second in favour of the Revenue.

7. No order as to costs.