
(2009) 02 RAJ CK 0035
In the Rajasthan High Court

Commissioner of Wealth-Tax	Vs	APPELLANT
Seth Gokuldas Pradeep Kumar Rathi and Another		RESPONDENT

Date of Decision : 26-02-2009

Acts Referred:

Wealth Tax Act, 1957 — Section 27(1)

Citation : (2009) 319 ITR 201

Hon'ble Judges : R.C. Gandhi, Acting C.J.; M.N. Bhandari, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This reference has been made u/s 27(1) of the Wealth-tax Act, 1957, at the instance of the Revenue, referring the following question for answer in R. A. Nos. 343 and 344/JP/88 (arising out of W. T. A. Nos. 28 and 29/JP/88) pertaining to the assessment year 1982-83:

Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the value of shares held by the assessee in M/s. Krishna Mills Ltd., Beawar, is to be arrived at on yield basis as against the value under Rule 1D of the Wealth-tax Rules ?

2. The assessee held shares in Krishna Mills and claimed that the shares should be valued as per yield method. The Wealth-tax Officer rejected the claim of the assessee and valued the same as per Rule 1D of the Wealth-tax Rules, 1957. An appeal was preferred before the Appellate Assistant Commissioner (for short "the AAC"), who set aside the order of the Wealth-tax Officer and allowed the claim of the assessee. Appeal was preferred by the Revenue before the Tribunal who confirmed the order of the Appellate Assistant Commissioner. Under such circumstances this reference has been presented.

3. Heard learned Counsel for the Revenue. Learned Counsel for the respondent is not present.

4. Learned Counsel for the Revenue has submitted that the reference sought to be adjudicated has already been considered by the Supreme Court in case title Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, . Among other issues the following issue was also considered by the apex court which reads as under (page 12):

Whether the Valuation Officer is bound by Rule 1D when valuing the unquoted equity shares of the companies ?

5. Dealing with this question, the apex court in paragraph 32 of the judgment held as under (page 26):

We are, therefore, of the opinion that the Valuation Officer is equally bound by Rule 1D as indeed he is bound by all the other rules made under the Act. This is the view taken by the Allahabad High Court in Commissioner of Wealth-tax Vs. Smt. Pushpawati Devi Singhania, The contrary view taken by the Delhi High Court in Sharbati Devi Jhalani Vs. Commissioner of Wealth Tax, Delhi-VII, and others, and other High Courts, if any, is overruled.

Question No. 3: Whether the application of the "break-up method" in Rule 1D means that the capital gains tax, which would be payable in case the said shares are sold on the valuation date, is liable to be deducted from the market value determined ?

6. To summarise the judgment of the court, the apex court in paragraph 41, held as under (page 34):

We summarise our conclusions thus:

(1) Rule 1D is perfectly valid and effective. The rule has to be followed in every case where unquoted equity shares of a company (other than an investment company or a managing agency company) have to be valued. All the authorities under the Act including the Valuation Officer are bound by the said rule. The question of the rule being mandatory or directory does not arise.

(2) While valuing the unquoted equity shares under Rule 1D, no deductions on account of capital gains tax which would have been payable in case the said shares were sold on the valuation date can be made. Similarly, no other deductions including provision for taxation, provident fund and gratuity are admissible. Rule 1D is exhaustive on the subject.

(3) Explanation 1 to Rule 1D is a perfectly valid piece of delegated legislation and has to be followed. Merely because the valuation date of the assessee and the date with reference to which the balance-sheet of the company is drawn up do not coincide, it cannot be said that Rule 1D is not mandatory or that it need not be followed.

(4) Sub-clause (a) of Clause (i) and Sub-clause (e) of Clause (ii) have to be read and understood in the manner indicated in this judgment hereinabove.

(5) An assessee holding shares in a company whose assets comprise wholly or partly of agricultural land, is not entitled to exclude such shares from his wealth.

7. The two judgments delivered by the Supreme Court on the same issue in cause titles Commissioner of Wealth Tax Vs. Mahadeo Jalan and Mahabir Prasad Jalan and Others etc., and Commissioner of Gift Tax, Bombay Vs. Smt. Kusumben D. Mahadevia, were also considered by the Supreme Court. These judgments have been delivered in cases where at that time Rule 1D was not in existence. Accordingly, we answer the reference in favour of the Revenue and against the assessee.

8. The reference is disposed of.