

(1987) 09 MP CK 0025

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 443 of 1983

Commissioner of Wealth-tax

APPELLANT

Vs

Shravan Kumar Patel

RESPONDENT

Date of Decision : 02-09-1987

Acts Referred:

Citation : (1988) 171 ITR 298

Hon'ble Judges : N.D. Ojha, C.J.;K.K. Adhikari, J

Bench : Division Bench

Advocate : B.K. Rawat, for the Appellant; None, for the Respondent

Judgement

1. The Income Tax Appellate Tribunal, Jabalpur Bench, Jabalpur, has referred the following question to this court for its opinion u/s 27(1) of the Wealth-tax Act, 1957 :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in, holding that the Income Tax and wealth-tax liabilities for all the earlier years and up to the assessment year 1975-76 will be deductible in computing the net wealth for the assessment year 1975-76 and that such liability should be deductible as a debt irrespective of the fact that the demand was created after the valuation date ?"

2. Before answering the aforesaid question, it may be pointed out that it has not been disputed by learned counsel for the Revenue that in the instant case the demand in respect of the Income Tax and wealth-tax liabilities referred to in the aforesaid question was created after the valuation date. A similar question came up for consideration before the Supreme Court in the case of Commissioner of Wealth Tax, Gujarat, Ahmedabad Vs. Kantilal Manilal and Others, , wherein it was held that Section 2(m)(iii)(a) of the Wealth-tax Act, 1957, comes into play only after a demand for payment of tax has been made. The clause speaks of tax outstanding in consequence of an order passed under the relevant taxing statute. Tax becomes payable in consequence of such an order when a notice of demand

is served on the assessee. Where the notice of demand is served on the assessee subsequent to the relevant valuation date, it cannot be said that on the valuation date the amount is outstanding and in such a case a material requirement of Section 2(m)(iii)(a) is not satisfied and, therefore, that provision cannot be invoked by the Department to deny deduction of such an amount of tax as a "debt" in the computation of the net wealth of the assessee.

3. The decision of the Supreme Court in the case of Commissioner of Wealth Tax, Gujarat, Ahmedabad Vs. Kantilal Manilal and Others, obviously clinches the issue. In view of that decision, our answer to the question referred to us is that, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the Income Tax and wealth-tax liabilities for all the earlier years and up to the assessment year 1975-76 will be deductible in computing the net wealth for the assessment year 1975-76 and that such liability should be deductible as a debt irrespective of the fact that the demand was created after the valuation date. In other words, the aforesaid question is answered in the affirmative, in favour of the assessee and against the Department. There shall, however, be no order as to costs.