(1991) 07 CAL CK 0010

In the Calcutta High Court

Case No : WT Reference No. 760 of 1989

Commissioner of Wealth Tax	APPELLANT
Vs	
Shri Krishna Bhandar Trust	RESPONDENT

Date of Decision : 03-07-1991

Acts Referred:
Wealth Tax Act, 1957 — Section 16A, 27(1)

Citation : (1993) 68 TAXMAN 213

Hon'ble Judges : Shyamal Kumar Sen, J;Ajit K. Sengupta, J

Bench : Division Bench

Advocate : Sunil Mukherjee, for the Appellant; J.P. Khaitan, for the Respondent

Judgement

Sengupta, J.—In this reference u/s 27(1) of the Wealth-tax Act, 1957 (''the Act'') for the assessment years 1983-84 and 1984-85 the following questions of law have been referred to this Court:

For assessment year 1983-84 :

Whether, on the facts and In the circumstances of the case, the Tribunal was correct in law in upholding the order of the Commissioner of income tax (Appeals) directing the Wealth-tax Officer to refer the valuation of shares of Bengal Rubber Co. Ltd.. Hindustan Discounting Co. Ltd. and Birla Bombay (P.) Ltd. to the Departmental Valuation Officer u/s 16A of the Wealth-tax Act, 1957?

For assessment year 1984-85 :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in upholding the order of the Commissioner of income tax (Appeals) directing the Wealth-tax Officer to refer the valuation of shares of Bengal Rubber Co. Ltd., Hindustan Discounting Co. Ltd. and Birla Bombay (P.) Ltd. to the Departmental Valuation Officer u/s 16A of the Wealth-tax Act, 1957?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that rule 1D of the Wealth-tax Rules, 1957 is directory and in

that view of the matter in directing the Wealth-tax Officer to re-determine the valuation of shares of Birla Bros. (P.) Ltd. in accordance with the principles laid down by the Supreme Court in the case of Commissioner of Wealth Tax Vs. Mahadeo Jalan and Mahabir Prasad Jalan and Others etc.,

It is not disputed that Bengal Rubber Co. Ltd. and Hindustan Discounting Co. Ltd. are investment companies to which rule 1D does not apply but Birla Bombay (P.) Ltd. is a non-investment company and rule 1D of the Rules would apply to this case. The WTO followed the Circular of the Board in making the assessment of the investment companies and adopted the break-up method under rule 1D so far as the non-investment company is concerned. The Commissioner (Appeals), however, directed that it was incumbent upon the WTO to have referred the matter of valuation of shares to the Departmental Valuation Officer inasmuch as there was a difference in the valuation having regard to the method adopted by the WTO and the method adopted by the registered Valuer. The Commissioner (Appeals) therefore, restored the issue relating to the valuation of shares of companies to the file of the WTO with direction to refer the valuation of shares to the Departmental Valuation Officer and thereafter reframe the assessments in accordance with the valuation as may be determined by the Departmental Valuation Officer. This order was upheld by the Tribunal. On these facts the aforesaid questions have been referred.

2. We may add that there is another company involved in the assessment year 1984-85 which is also a non-investment company to which rule 1D would apply, that is, Birla Bros. (P.) Ltd.

3. It is not in dispute that the questions in this reference are more or less concluded by the decision of this Court in the case of CIT v. India Exchange Traders Association [IT Reference No. 149 of 1987, dated 21-3-1991].

4. Following the said decision we answer the only question for the assessment year 1983-84 and the first question for the assessment year 1984-85 by saying that the Tribunal was correct in law in upholding the order of the Commissioner (Appeals) insofar as he directed the WTO to refer the valuation of shares of Bengal Rubber Co. Ltd. and Hindustan Discounting Co. Ltd. to the Departmental Valuation Officer u/s 16A of the Act, as these are investment companies. However, the Tribunal was not right in directing the WTO to refer the valuation of shares of Birla Bombay (P.) Ltd. to the Departmental Valuation Officer u/s 16A to which rule 1D applies and, accordingly, the WTO was Justified in adopting the break-up method under rule 1D. We answer the questions accordingly.

5. In view of the aforesaid decision in India Exchange Traders Association''s case (supra) the second question for the assessment year 1984-85 is answered in the negative and in favour of the revenue. There will be no order as to costs.

Sen, J.

I agree.