(1986) 01 DEL CK 0003

In the Delhi High Court

Case No : Wealth-tax cases No''s. 24 to 29 of 1982

Commissioner of Wealth Tax APPELLANT

Vs

S.K. Dass RESPONDENT

Date of Decision : 22-01-1986

Acts Referred:

Citation : (1986) 51 CTR 232 : (1986) 161 ITR 292

Hon'ble Judges : Yogeshwar Dayal, J;S. Ranganathan, J

Bench : Division Bench

Judgement

1. These are six applications u/s 27(3) of the Wealth-tax Act, 1957, relating to the valuation of a property in dispute. The property in dispute was acquired under the Land Acquisition Act on November 19,1966. For the assessment years 1967-68 and 1969-70 to 1973-74, the assessed returned the valuation of the property for purposes of wealth-tax at the figure of compensation which he received from the Land Acquisition Collector. When the matter came up for assessment before the Wealth-tax Officer, the Wealth-tax Officer fixed the valuation at the figure which the assessed had claimed before the High Court by way of enhancement of compensation.

2. The assessed took up the matter in appeal before the Commissioner of Wealth-tax (Appeals). The Commissioner of Wealth-tax (Appeals) accepted the valuation as given by the assessed, namely, the compensation received by him from the Collector because the subsequent enhancement done by the district judge was not done during the relevant assessment years.

3. The Commissioner of Wealth-tax brought the second appeal before the Tribunal. Before the Tribunal, the Commissioner of Wealth-tax relied upon a decision of the Supreme Court in the case of Mrs. Khorshed Shapoor Chenai and Others Vs. Assistant Controller of Estate Duty, Andhra Pradesh and Others, , and submitted that apart from the compensation awarded by the Collector, there was a further right which accrued to the assessed, namely, right to receive enhanced compensation. The Tribunal agreed with the submission that it was so but found,

in the absence of any material, that the Commissioner of Wealth-tax (Appeals) was right in accepting the valuation figure as given by the assessed.

4. Thereafter, the Commissioner of Wealth-tax applied for referring certain questions to the High Court but the Tribunal declined to refer the same and thereafter the present applications were filed.

5. Mr. Jain submitted that the Tribunal had wrongly applied the decision of the Supreme Court in the case of Mrs. Khorshed Shapoor Chenai and Others Vs. Assistant Controller of Estate Duty, Andhra Pradesh and Others, . We are afraid that we cannot agree with this submission of the learned counsel. The Tribunal had correctly appreciated the decision of the Supreme Court. The Tribunal, in fact, quoted from the judgment of the Supreme Court in extenso and even the observations to the following effect at page 22 - headnote) :

"This, however, does not mean that the evaluation of this right done by the civil court subsequently would be its valuation as at the relevant date for the purpose of either the E. D. Act or the W. T. Act. It is the duty of the assessing authority under either of those enactments to evaluate the property (the right to receive compensation at market value on the date of the relevant notification) as on the relevant date (i.e., the date of death under the E. D. Act or the valuation date under the W. T. Act).

In the case of the right to receive compensation, which is property, the estimated value can never be below the figure quantified by the Collector because u/s 25(1) of the Land Acquisition Act, the Civil Court cannot award any amount below that awarded by the Collector; the estimated value can be equal to the Collector''s award or more but can never be equal to the tall claim made by the claimant in the reference nor equal to the claim actually awarded by the civil court inasmuch as the risk or hazard of litigation would be a detracting factor while arriving at a reasonable and proper value of this property as on the date of the deceased''s death. The assessing authority will have to estimate the value having regard to the peculiar nature of the property, its marketability and the surrounding circumstances including the risk or hazard of litigation looming large at the relevant date."

6. Since the method of valuation of this right had been laid by the Supreme Court, the next question which arose was how this right is to be valued. No material was placed by any of the parties in that behalf before the Wealth-tax Officer or before the Tribunal. In the absence of such material, ''he Tribunal accepted the valuation of the assessed which was based on the award of the Collector.

7. It is conceded that there is no other evidence available for the assessing authority to estimate the value having regard to the peculiar nature of the property, its marketability and the surrounding circumstances including the hazard of litigation looming large at the relevant time. In this situation, no useful purpose will be served in calling upon the Tribunal to submit a statement of the

Case and refer the question asked for. We would thus accordingly dismiss these applications.

8. Since nobody has appeared on behalf of the respondent parties are left to bear their own costs.