(2004) 04 RAJ CK 0056

In the Rajasthan High Court

Case No : WT Ref. Application No. 81 of 1995

Commissioner of Wealth Tax APPELLANT

Vs

S.K. Golecha RESPONDENT

Date of Decision : 13-04-2004

Acts Referred:

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

Citation : (2004) 191 CTR 337 : (2004) 270 ITR 379

Hon'ble Judges : Y.R. Meena, J;F.C. Bansal, J

Bench : Division Bench

Advocate : Anuroop Singhi, for the Appellant; T.C. Jain, for the Respondent

Judgement

1. On an application u/s 27(1) of the WT Act, the Tribunal has referred the following question :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in upholding the order of the CWT(A) directing the AO to take the value of Prem Prakash Cinema building as per finding of first appellate authority for asst. yr. 1979-80 by making enhancement by 10 per cent in each assessment year over the value adopted for the earlier years ?"

2. The assessee-HUF is a partner in a partnership firm of M/s S. Zoraster & Co. which, Inter alia, owns an immovable property known as Prem Prakash cinema building. The assessee-HUF declared the value of its interest in the said immovable property at minus figure whereupon the WTO made a reference u/s 16A of the Act to the valuation cell of the Department. The District Valuation Officer valued the said property at positive figures and estimated the value of assessee''s interest therein accordingly.

3. The assessee approached the CWT(A) in the first appeal. The CWT(A) directed the WTO to determine the value of the said immovable property for the years under consideration by enhancing the value by 10 per cent in each year over the value adopted for earlier year. That view has been affirmed by the Tribunal.

4. Heard learned counsel for the parties.

5. In case of The Special Land Acquisition Officer, BTDA, Bagalkot Vs. Mohd. Hanif Sahib Bawa Sahib, their Lordships observed as under :

"After due deliberations on the contentions raised by the counsel for the parties, we are of the opinion that on the given facts and circumstances of the present case the appreciation of 10 per cent per annum given for the subsequent years is neither excessive nor unreasonable so as to call for our interference."

6. When the direction is given that value in the year in hand should be taken by enhancing 10 per cent in the value taken in the preceding year, that is neither unreasonable nor excessive.

7. In view of the view taken by their Lordships regarding valuation of the property, we see no justification to interfere in the view taken by Tribunal that value in the year in hand should be taken by enhancing 10 per cent in the value taken in the preceding year. No interference is called for.

8. In the result, we answer the question in the affirmative i.e., in favour of the assessee and against the Revenue.

Reference so made stands disposed of accordingly.