(2000) 11 MAD CK 0053

In the Madras High Court

Case No : T.C. No''s. 1530 and 1531 of 1984 (Reference No''s. 1119 and 1120 of 1984)

Commissioner of Wealth-tax APPELLANT

Vs

S.L. Chitale RESPONDENT

Date of Decision : 22-11-2000

Acts Referred:

Citation : (2001) 252 ITR 586

Hon'ble Judges : R. Jayasimha Babu, J;K. Gnanaprakasam, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; Anirudh, for Chitra Narayanan, for the Respondent

Judgement

R. Jayasimha Babu, J.—The question referred to us in this case is similar to the one that was considered by this court in the case of

Commissioner of Income Tax Vs. M.N. Sulaiman, . That was a case under the Income Tax Act while these cases are under the Wealth-tax Act.

However, the scope of the revisional powers of the Commissioner under the two Acts is similar.

2. For the assessment years 1978-79 and 1979-80, the wealth-tax assessment was made by the Wealth-tax Officer without waiting for the receipt

of the valuation report in respect of the house property owned by the assesses even though the report had been called for. The report subsequently

received showed a valuation which was three times the value that had been adopted by the assessee and which had been incorporated in the

assessment year. The Commissioner being of the view that the order was prejudicial to the Revenue, called for the records, and the records were

examined by him. At the time of examination, it contained the valuation report which had been received after the assessment. The Commissioner

after due notice to the assessee relied on the valuation report and revised the assessment. At the instance of the assessee, the Tribunal set aside

that order of the Commissioner holding that he should not have taken note of the valuation report which was received subsequent to the date of the

assessment.

3. This court in the case of Commissioner of Income Tax Vs. M.N. Sulaiman, , has held in similar facts and circumstances arising under the Income

Tax Act that the valuation report submitted subsequent to the assessment, which report had been called for prior to the assessment, and which

report formed part of the record before the Commissioner was a report which was required to be taken into account by the Commissioner for the

purpose of deciding as to whether the assessment made was prejudicial to the Revenue, and the Commissioner was required to examine that

report as part of the record before him though it was not part of the record that was before the Income Tax Officer. The term ""record"" u/s 25(2) of

the Wealth-tax Act has been defined in Explanation, Clause (b), as including records relating to any proceeding under that Act at the time of

examination by the Commissioner. The report relied on, though not disputed, was available at the time of examination. The question referred to us

is answered in favour of the Revenue and against the assessee.