
(1987) 08 RAJ CK 0040

In the Rajasthan High Court

Case No : .W.T. Reference No's. 53, 54, 54A and 55 to 58 of 1980

Commissioner of Wealth-tax

APPELLANT

Vs

Smt. Chaka Bai

RESPONDENT

Date of Decision : 12-08-1987

Acts Referred:

Wealth Tax Act, 1957 — Section 2

Citation : (1988) 173 ITR 388

Hon'ble Judges : J.S. Verma, C.J;I.S. Israni, J

Bench : Division Bench

Advocate : R.N. Surolia, for the Appellant; N.M. Ranka, for the Respondent

Judgement

1. This order shall dispose of all the aforesaid seven references made at the instance of the. Revenue u/s 27(1) of the Wealth-tax Act, 1957, to decide a common question of law in respect of the same assess"ee pertaining to the assessment years 1966-67 and 1968-69 to 1973-74. The common question of law as stated in the reference relating to the assessment year 1966-67 is as under :

" Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in allowing deduction of Income Tax liability pertaining to earlier years and quantified on settlement reached some time in 1975 out of the gross amount of the assessee"s share amounting to Rs. 76,000 ? "

2. The only difference in the same question pertaining to the remaining assessment years is at the end in respect of the particular year to which the reference relates.

3. The assessee was a partner in a firm styled as Cosmopolitan Trading Corporation, Jaipur, in which he had 1/4th share. This firm entered into a joint venture with one Manmal Surana and therein earned an income of Rs. 3,04,000 during the period pertaining to the assessment years 1958-59 to 1963-64. This income was not disclosed by the firm. Subsequently, the firm disclosed this

income to the Income Tax Department and a settlement was reached between the parties in 1975. The share of the assessee in this earlier undisclosed amount of Rs. 3,04,000 was Rs. 76,000, being his 1/4th share in the income. The Wealth-tax Officer included the gross amount of Rs. 76,000 in the wealth of the assessee rejecting the assessee's contention that the Income Tax payable thereon had to be deducted according to Section 2(m) of the Wealth-tax Act, 1957. The Appellate Assistant Commissioner, however, upheld the assessee's contention and held that the gross amount of Rs. 76,000 minus tax liability thereon represented the net value of that asset for inclusion in the assessee's wealth. It was accordingly held that the Wealth-tax Officer was not justified in refusing to deduct the amount of tax liability on this amount of Rs. 76,000 from it for the purpose of computation of the net wealth of the assessee. The Tribunal has affirmed the view taken by the Appellate Assistant Commissioner. The Tribunal has also referred to *Kesoram Industries and Cotton Mills Ltd. Vs. Commissioner of Wealth Tax, (Central) Calcutta*, and *H.H. Setu Parvati Bayi Vs. Commissioner of Wealth Tax, Kerala*, in support of its conclusion. It has been held that the tax liability incurred by the assessee on this amount had crystallised on the valuation date and, therefore, it was a "debt owed" within the meaning of Section 2(m) of the Wealth-tax Act, 1957, on account of which the amount of tax due on this amount of Rs. 76,000 had to be deducted from the estimated value of the asset on the valuation date. It was pointed out that the ultimate quantification of the tax liability as a result of the settlement reached in 1975 did not have the effect of postponing the time when the tax liability had accrued, as a result of the income being earned. Hence, this reference at the instance of the Revenue.

4. There are several decisions of the Supreme Court which show that the view taken by the Tribunal is justified. In *Commissioner of Wealth Tax, Madras Vs. K.S.N. Bhatt*, it was held that even where the tax liability had been incurred on the date of valuation but the same had been assessed or quantified subsequently, the same was deductible as a "debt owed" within the meaning of Section 2(m) of the Wealth-tax Act, 1957, while computing the net wealth of the assessee under that Act. The same view is taken in *Commissioner of Wealth Tax, Gujarat, Ahmedabad Vs. Vadilal Lallubhai and Others*, and *Commissioner of Wealth-tax, Gujarat Vs. Smt. Vimlaben Vadilal Mehta*. It is needless to refer to the other decisions of the Supreme Court taking the same view. Following these decisions, the references have to be answered against the Revenue and in favour of the assessee.

5. Consequently, all these references for the assessment years 1966-67 and 1968-69 to 1973-74 are answered in favour of the assessee and against the Revenue by holding that the Tribunal was justified in taking the view that the tax liability had to be deducted from the gross amount of Rs. 76,000 for the purpose of computing the net wealth of the assessee under the Wealth-tax Act, 1957.

6. No costs.