
(1990) 11 AHC CK 0064

In the Allahabad High Court

Case No : Wealth-tax Reference No. 1007 of 1978

Commissioner of Wealth-tax

APPELLANT

Vs

Smt. Pushpawati Devi Singhania

RESPONDENT

Date of Decision : 13-11-1990

Acts Referred:

Wealth Tax Act, 1957 — Section 24, 24(6)
Wealth Tax Rules, 1957 — Rule 1D

Citation : (1991) 93 CTR 233 : (1991) 188 ITR 364

Hon'ble Judges : B.P. Jeevan Reddy, C.J.; V.N. Mehrotra, J

Bench : Division Bench

Advocate : Markandey Katju, for the Appellant; V.B. Upadhyaya, for the Respondent

Final Decision : Disposed Of

Judgement

B.P. Jeevan Reddy, C.J.—u/s 27(3) of the Wealth-tax Act, 1957, the Tribunal referred the following four questions :

1. "Whether, on the facts and in the circumstances of the case, Rule 1D of the Wealth-tax Rules, 1957, overrides the provisions of Section 24(6) of the Wealth-tax Act ?
2. Whether, on the facts and in the circumstances, is it open to the Revenue to rely on Rule 1D even though no specific argument was raised before Tribunal ?
3. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in adopting the valuation as made by the; valuers even though their valuation was not based on the statutory method of valuation provided under Rule 1D?
4. Whether the valuers to whom the valuation of shares was referred u/s 24(6) of the Act were, in law, bound to follow the method of valuation prescribed by Rule 1D of the Wealth-tax Rules ? "

2. The assessee is an individual. She held certain unquoted shares of various companies of the J.K. Group. In her returns filed under the Wealth-tax Act, she valued those shares by taking the average of the breakup value method and the yield value method. This was not accepted by the Wealth-tax Officer who revalued the shares, applying the break-up method. The assessee appealed. The Appellate Assistant Commissioner upheld the valuation method adopted by the assessee, whereupon the Department carried the matter in appeal to the Tribunal. At that time, a number of other appeals filed by other members of the family were pending before the Tribunal and in those appeals a reference was made to the valuers under Sub-section (6) of Section 24 of the Wealth-tax Act. The parties to this appeal agreed before the Tribunal that the hearing of this appeal may be held over till the receipt of the valuation report in those other cases. After the receipt of the valuation report, the Tribunal disposed of this appeal applying the valuation placed by the valuers. Thereupon, the Revenue applied for referring the aforesaid questions which was declined by the Tribunal but directed to be stated by this court.

3. We shall deal with the questions in their proper order. The first question is whether Rule 1D of the Wealth-tax Rules overrides the provisions of Section 24(6) of the Wealth-tax Act? We are afraid this question presupposes an inconsistency between the said rule and the said sub-section which, in our opinion, is not really there. The fields of operation of both the provisions are different and distinct. Section 24(6) enables the Tribunal to refer the question of valuation to valuers in certain circumstances; whereas Rule 1D sets out the method according to which unquoted shares are to be valued. It is obvious that the valuers, while valuing the shares under Sub-section (6) of Section 24, have to follow the method prescribed by Rule 1D. There is, therefore, no question of Rule 1D overriding Section 24(6). Both operate in their respective fields. The question is answered accordingly.

4. Coming to question No. 2, it is true that the order of the Tribunal does not disclose that Rule 1D as such was referred to or relied upon by the appellant (Revenue) but it is equally clear that the whole argument of the Revenue was that the shares must be valued by adopting the break-up method as was done by the Wealth-tax Officer. Rule 1D, it must be noted, incorporates the break-up method. (In this respect, it is necessary to notice two facts: one is that Rule 1D came into force on October 6, 1967. It was not in existence when the Wealth-tax Officer made the assessment. It was, of course, available by the date of filing of the appeal before the Tribunal. The second is the decision of this court in Commissioner of Wealth-tax Vs. Laxmipat Singhania, which holds that the said rule being procedural in nature applies to pending assessments relating even to the assessment years previous to the assessment year 1966-67). It is thus clear that, Rule 1D was indeed applicable to valuation of the said shares in the assessment year concerned. We are also of the opinion that since the Department was canvassing for application of break-up method and because the said method is incorporated in Rule 1D, it is open to the Department to rely upon

Rule 1D in this reference, notwithstanding the fact that the rule as such does not appear to have been relied upon before the Tribunal. The objection of the assessee, in our opinion, is too technical.

5. Before dealing with question No. 3, we think it appropriate to dispose of question No. 4. While dealing with question No. 1 we have held that Rule 1D binds the valuers acting u/s 24(6). The valuers are bound to apply the method prescribed in Rule 1D while valuing unquoted shares. Question No. 4 is answered accordingly.

6. Now coming to question No. 3, we find that the necessary factual basis is not there in the Tribunal's order for answering this question. As stated above, the hearing of this appeal was held up at the request of both the parties awaiting the receipt of the valuer's report called for in the other reports. After the valuer's report was received, this appeal was disposed of adopting and accepting the valuation contained in the report. There is nothing to show in the order of the Tribunal that, after the receipt of the valuer's report, either party, in particular, the Revenue, objected to the said report on the ground that the valuation is not in accordance with Rule 1D. There is nothing to show in the order of the Tribunal that the valuer's report is not in accordance with Rule 1D. Just because the valuation arrived at by the valuers is less than the value determined by the Wealth-tax Officer, we cannot presume that the valuers have not followed Rule 1D.

7. Be that as it may, since no objection was raised by the Revenue before the Tribunal, nor is there any finding by the Tribunal that their valuation is not in accordance with Rule 1D, we can neither presume that the valuer's valuation is not in accordance with Rule 1D nor can we permit the Revenue to raise the said contention before us. Indeed, this question cannot be said to arise from the order of the Tribunal. This question was neither urged before nor considered by the Tribunal. We therefore, decline to answer question No. 3. In the circumstances, the Tribunal can-not also be said to be at fault in acting upon the report of the valuers.

8. Mr. Markandey Katju, learned standing counsel for Revenue, suggested that we must call for a supplementary statement on the question whether the Revenue had objected to the valuer's report on the aforesaid ground. However, having regard to the order of the Tribunal and the several facts and the circumstances of the case including the long time-lag, we are not inclined to follow that course.

9. The reference is answered accordingly. No order as to costs.