

(1996) 06 GAU CK 0047
In the Gauhati High Court
Case No : Wealth-tax Reference No. 1 of 1992

Commissioner of Wealth-tax	Vs	APPELLANT
Smt. Ratnamala Agarwalla		RESPONDENT

Date of Decision : 21-06-1996

Acts Referred:

Compulsory Deposit Scheme (Income Tax Payers) Act, 1974 — Section 7A
Wealth Tax Act, 1957 — Section 2, 5

Citation : (1997) 140 CTR 560 : (1996) 222 ITR 257

Hon'ble Judges : S.B. Roy, J;D.N. Baruah, J

Bench : Division Bench

Advocate : G.K. Joshi and U. Bhuyan, for the Appellant; A.K. Saraf and K.K. Gupta, for the Respondent

Judgement

D.N. Baruah, J.—At the instance of the Revenue, the following question has been referred to this court by the Income Tax Appellate Tribunal u/s 27(1) of the Wealth-tax Act, 1957 (for short, "the Act"), for opinion of this court :

"Whether, under the facts and circumstances of the case, the Tribunal was justified in facts as well as in law in holding the deposit of Rs. 3,69,320 being Compulsory Deposit (income tax Payers) Scheme, 1974, is exempt u/s 2(e)(2) (ii) of the Wealth-tax Act, 1957 ?"

2. Heard Mr. G.K. Joshi, learned counsel, appearing on behalf of the Revenue, and Dr. A.K. Saraf, learned counsel appearing on behalf of the assessee.

3. Mr. Joshi draws our attention to Section 2(e)(2)(ii) of the Act and submits that compulsory deposit is not an annuity. On the other hand, Dr. Saraf submits that it is an annuity. Dr. Saraf draws our attention to a decision of the apex court in Commissioner of Wealth-tax, Gujarat Vs. Arundhati Balkrishna, Relying on the said decision, Dr. Saraf submits that compulsory deposit is an annuity and, therefore, it cannot be regarded as an asset and wealth-tax is not payable on it.

4. The expression "annuity" is not defined in the Act. However, in Halsbury's

Laws of England, third edition, volume 32, the meaning of the word "annuity" is explained thus ;

"An annuity is a certain sum of money payable yearly either as a personal obligation of the grantor or out of property not consisting exclusively of land."

5. In Jarman on Wills, "annuity" is defined thus :

"An annuity is a right to receive de anno in annum a certain sum ; that may be given for life, or for a series of years ; it may be given during any particular period, or in perpetuity ; and there is also this singularity about annuities, that, although payable out of the personal assets, they are capable of being given for the purpose of devolution, as real estate ; they may be given to a man and his heirs, and may go to the heir as real estate."

6. As per Black's Law Dictionary, fifth edition, "annuity" means -

" A right to receive fixed, periodic payments, either for life or for a term of years."

7. As per Webster's New Twentieth Century Dictionary, "annuity" means -

"An investment yielding a fixed sum of money, payable yearly, to continue for a given number of years or for life, ..."

8. From the dictionary meaning it appears that "annuity" is money which is to be received by a person periodically, annually or in perpetuity. Under the Compulsory Deposit Scheme (income tax Payers) Act, 1974, above certain income an individual or a Hindu undivided family or a trustee is liable to make compulsory deposit to be received back with interest after a certain period of time. It is not a payment to the Government. At least the Act does not say so. Mr. Joshi draws our attention to Section 7A of the Compulsory Deposit Scheme (income tax Payers) Act, 1974, which lays down that for the purposes of exemption u/s 5 of the Wealth-tax Act, 1957 (27 of 1957), the amount of compulsory deposit shall be deemed to be a deposit with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies. The provision of Section 7A of the 1974 Act makes it clear that compulsory deposit is an asset. Dr. Saraf has not been able to show that the amount goes to the public fund.

9. In view of the above, in our opinion, compulsory deposit cannot be called an "annuity" within the meaning of Section 2(e)(2)(ii) of the Wealth-tax Act. Accordingly, we answer the question in the negative, against the assessee and in favour of the Revenue.

10. A copy of this judgment under the signature of the Registrar and the seal of the High Court shall be transmitted to the Income Tax Appellate Tribunal, Guwahati.