(1978) 01 AHC CK 0010

In the Allahabad High Court

Case No : Income Tax R. No. 800 of 1972

COMMISSIONER OF WEALTH TAX — APPELLANT

Vs

SMT. VEENA DEVI. — RESPONDENT

Date of Decision : 02-01-1978

Acts Referred:
Wealth Tax Act, 1957 — Section 7(1)

Citation : (1978) 7 CTR 42

Hon'ble Judges : Satish Chandra, J

Bench : Division Bench

Judgement

Satish Chandra, J. - The Tribunal has referred the following question of law for the opinion of this Court for the assessment years 1967-68, 1968-69 and 1969-70.

1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was competent to entertain and decide the question with regard to vires of rule 1-D of the Wealth Tax Rules.

2. Whether on the facts and in the circumstances of the case the view taken by the Tribunal that rule 1-D of the Wealth tax Rules, instead of serving the purpose of the Act, puts a severe curb on it, particularly on the provisions contained in S. 7(1) and 24(5) of the Wealth Tax Act, and hence it is ultra vires of these sections, is correct in law.

3. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was justified in holding that rules 1-C and 1-D introduced by the Wealth Tax (Amendment) Rules, 1967, by the notification dated 6-10-1967 do not have any retrospective effect and could not be applied for the valuation of the unquoted shares for the assessment year 1967-68 as the valuation date thereof preceded 6-10-1967.

2. The point arising in respect of questions 1 and 2 stands covered by the decision of a Division Bench of this Court in Commissioner of Wealth Tax vs. Dr.

Gaur Hari Singhania. These very questions in respect of another member of the Singhania family of Kanpur were referred in that case and it was held by this Court that the Tribunal was not competent to entertain and decide the question of vires of rule 1-D aforesaid. In view of this answer the Bench did not consider it necessary to answer question No. 2, which was identical to the second question referred to us. We propose to adopt the same procedure.

3. The third question, which relates to the retrospective operation of rules 1C and 1-D, stands disposed of by another decision of this Court in Commissioner of Wealth Tax vs. Laxmipat Singhania. There it was held that Rr. 1-C and 1-D prescribe the procedure to be adopted by the Wealth Tax Officer for determining the valuation of shares, and so they were applicable to proceedings which were pending on 6-10-1967, the date when these rules came into force.

4. We have heard learned counsel for the parties, but we are not satisfied that decision requires reconsideration. In respect of the third question, therefore, we concur in the opinion that Rr. 1-C and 1-D have retrospective operation.

5. In the result question No. 1 is answered in the negative, against the assessee and in favour of the Department. In view of our answer to question No. 1, the second question is returned without any answer. Question No. 3 is answered in the negative, in favour of the Department and against the assessee. The Department will be entitled to costs which are assessed at Rs. 200/-.