(1996) 01 RAJ CK 0050

In the Rajasthan High Court

Case No : DB Wealth Tax Reference No. 8 of 1996

Commissioner of Wealth Tax APPELLANT

Vs

Sunder Lal Gupta RESPONDENT

Date of Decision : 15-01-1996

Acts Referred:
Wealth Tax Act, 1957 — Section 25(2), 27(1), 27(3)

Citation : (1996) 88 TAXMAN 15

Hon'ble Judges : P.C. Jain, J;B.R. Arora, J

Bench : Division Bench

Advocate : Sandeep Bhandawat, for the Appellant;

Final Decision : Dismissed

Judgement

B.R. Arora, J.—The revenue, by this application u/s 27(3) of the Wealth-tax Act, 1957 (''the Act''), has prayed that the Tribunal may be directed to state the case and refer the following question of law for the opinion of the High Court: Whether, on the facts and in the circumstances of the case, the learned Tribunal is legally justified in remanding the case to WTO for valuation of property as per Schedule III whereas such Schedule is effective from 1-4-1989 so applicable for assessment year 1989-90 and onwards?

The controversy and the dispute in this petition relates to the valuation of the share of the assessee in an immovable property, namely, ''Jindal General Mfg. Co., Delhi'' which is situated at C-92, Wazirpur Industrial Area, Delhi. The assessee was assessed for his share in this property at Rs. 16,19,000 in each year of the assessment by the WTO on the basis of the report of the District Valuation Officer (DVO). The DVO valued the suit property at a higher value.

According to the Commissioner (Appeals), the valuation arrived at by the WTO was erroneous and prejudicial to the interests of the revenue because the DVO had valued the suit property at substantially a higher figure. The Commissioner (Appeals), therefore, exercising his power u/s 25(2) of the Act, set aside the assessment and directed the WTO to make assessment afresh according to law taking into consideration the report of the DVO and after affording proper opportunity of hearing to the assessee-appellant. The assessee and the other co-owners preferred appeals before the Tribunal and the Tribunal partly allowed the appeal and directed the Assessing Officer that while making fresh assessment in compliance with the order of the Commissioner (Appeals), the WTO shall value the share of the assessee in the said joint property as per the amended rules contained in Schedule III of the Act after giving proper opportunity of being heard to them. Thereafter, the revenue moved an application u/s 27(1) for referring the above question of law for the opinion of the High Court. The said application was dismissed by the Tribunal and the Tribunal declined to refer the question for the opinion of the High Court.

2. The controversy involved in the present case, therefore, is: whether the amended provisions relating to the valuation, which came into operation on 1-4-1989 will apply in the present case? The provisions relating to valuation of the property, contained in Schedule III, are procedural in nature and the procedural law is applicable to the pending cases, also. The provisions are in the character of rules of evidence and, therefore, the market value has to be determined in accordance with the provisions which are in operation at the time when the assessment is made. The controversy stands concluded by the judgment of the Supreme Court in CWT v. Sharvan Kumar Swarup & Sons [1994] 210 ITR 887 wherein it has been held that "rule 1BB partakes the character of rule of evidence, it deems the market value to be one arrived at on the application of particular method of valuation which is also one of the recognised and accepted method. The rule is procedural and not substantive and is applicable to the proceedings pending on April 1, 1979 when the rule came into force. The procedural law, generally speaking, is applicable to the pending cases".

3. As the controversy stands concluded by the judgment of the Supreme Court in the aforesaid case, as such no referable question of law arises in the matter and the Tribunal was right in refusing to refer the question for the opinion of this Court. In this view of the matter, since the controversy in the present case stands decided by the judgment of the Supreme Court in Sharvan Kumar Swarup & Son''s case (supra) we do not find any merit in this application u/s 27(3). In the result, the application u/s 27(3) has no merit and the same is hereby dismissed.