
(1994) 09 PAT CK 0026

In the Patna High Court

Case No : Tax Case Nos. 291 to 296 of 1981

Commissioner of Wealth Tax

APPELLANT

Vs

Suresh Mohan Thakur

RESPONDENT

Date of Decision : 15-09-1994

Acts Referred:

Citation : (1994) 09 PAT CK 0026

Judgement

B.P. Singh J.

1. In all these matters common questions of law have been referred to this court for its opinion pursuant to a direction of this court u/s 27(3) of the Wealth-tax Act, 1957. The assessee in all the cases is the same, and the references relate to different assessment years, namely, assessment years 1966-67 to 1971-72. The questions of law referred to this court for its opinion are the following :

"1. Whether, on the facts and in the circumstances of the case, the jewellery included ornaments, according to the first proviso to Clause (viii) of Sub-section (1) of Section 5 of the Act, and the addition of Explanation was merely clarificatory ?

2. Whether, on the facts and in the circumstances of the case, the order of the Income Tax Appellate Tribunal is perverse and not based on law ?"

2. The facts of the case are not in dispute. The assessee, a Hindu undivided family, owned movable and immovable properties including 144 tolas of gold ornaments. It claimed before the Wealth-tax Officer that the value of the gold ornaments was exempt u/s 5(1)(viii) of the Wealth-tax Act, and, therefore, should not be included in the net wealth of the assessee under the Wealth-tax Act. It was contended on their behalf that gold ornaments were exempt from wealth-tax up to the assessment year 1971-72, because the Explanation to Section 5(1)(viii) by which "jewellery" was defined to include ornaments made of gold, silver, platinum or any other precious metal, or any other alloy containing one or more such precious metal, whether or not containing any precious or

semi-precious stone, and whether or not worked or sewn into any wearing apparel, came into effect from April 1, 1972. Consequently, gold ornaments could not be said to be "jewellery" in terms of Section 5(1)(viii) of the Act, on the valuation date earlier than April 1, 1972. The valuation date in each of the relevant years is in the month of September.

3. The Wealth-tax Officer negatived the claim of the assessee, but on appeal the Appellate Assistant Commissioner following the decision of the Orissa High Court in *CWT v. Binapani Chakraborty* [1978] 114 ITR 82, allowed the appeal and directed the Wealth-tax Officer to obtain a list of gold ornaments of the assessee to find out whether the gold ornaments had precious or semi-precious stones embedded on them, and include only such gold ornaments at their market price in the net wealth of the assessee, excluding the gold ornaments having no such precious or semiprecious stones embedded on them.

4. The appeal preferred by the Revenue before the Tribunal failed. The Revenue asked for a reference to this court u/s 27(1) of the Act, but the same was rejected, as the Tribunal was of the opinion that the questions suggested by the Revenue were either questions of fact, or did not arise out of the order of the Tribunal. Thereafter, the Revenue moved this court u/s 27(3) of the Act, and as noticed earlier, this court was pleased to direct the Tribunal to draw up a statement of case in each matter and refer two questions of law for the opinion of this court, which have been reproduced earlier.

5. Before its amendment by the Finance (No. 2) Act, 1971, Section 5(1)(viii) of the Wealth-tax Act, 1957, read as under :

"5. Subject to the provisions of Sub-section (1A), wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee. . . .

(viii) furniture, household utensils, wearing apparel, provisions and other articles intended for the personal or household use of the assessee."

6. By the Finance (No. 2) Act of 1971, after the existing Clause (viii), the words "but not including jewellery" were added with retrospective effect from April 1, 1963, so that it read as under :

"(viii) furniture, household utensils, wearing apparel, provisions and other articles intended for the personal or household use of the assessee, but not including jewellery."

7. By the same Finance (No. 2) Act, 1971, two provisos and two Explanations were also added which were made effective from April 1, 1972, i.e., prospectively. Explanation 1 deserves to be noticed. It provides :

"Explanation 1.--For the purposes of this clause and Clause (xiii), "jewellery" includes,--

(a) ornaments made of gold, silver, platinum or any other precious metal or any

alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel ;

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel."

8. It is necessary to notice the background in which Section 5 of the Wealth-tax Act was amended by the Finance (No. 2) Act, 1971. In COMMISSIONER OF WEALTH-TAX, GUJARAT II Vs. MRS. ARUNDHATI BALKRISHNA., , the court was considering the question whether the assessee was entitled to claim exemption in respect of jewellery or ornament irrespective of its valuation, if they were intended as articles for personal use of the assessee. The Revenue contended that an assessee would not be entitled to claim exemption for the jewellery and ornaments irrespective of their value under Clause (viii) of Section 5(1) on the ground that they are articles intended for personal use of the assessee, in view of the specific provision having been made in respect of jewellery belonging to the assessee under Clause (xv) of Section 5(1) as then existing, where an initial exemption of Rs. 25,000 was provided. The High Court rejected the contention and held that jewellery and ornament, if they were intended for personal use of the assessee, were entitled to claim exemption irrespective of their valuation under Clause (viii) of Section 5(1) of the Act. The court observed that the term "jewellery" was the collective description of jewellery as well as other ornaments of precious metal. Though the question did not arise in the manner it has arisen in the instant case in COMMISSIONER OF WEALTH-TAX, GUJARAT II Vs. MRS. ARUNDHATI BALKRISHNA., , the Gujarat High Court did observe that the term "jewellery" included ornaments of precious metals.

9. The decision of the Gujarat High Court was appealed against by the Commissioner of Wealth-tax, but the appeal preferred by the Commissioner was rejected and the judgment of the Gujarat High Court affirmed. The judgment of the Supreme Court is reported in Commissioner of Wealth-tax, Gujarat Vs. Arundhati Balkrishna, . Dismissing the appeal, the Supreme Court held (at page 511) :

"Under Section 5(1)(xv), as it stood at the relevant time, every assessee was entitled to deduct a sum of Rs. 25,000 from out of the value of the jewellery in her possession whether the same was intended for her personal use or not but u/s 5(1)(viii) the value of all the jewellery intended for the personal use of the assessee stands excluded in the computation of the net wealth of an assessee."

10. In view of the judgment of the Supreme Court, the Legislature intervened by enacting the Finance (No. 2) Act of 1971. Section 5(1)(viii) was amended so as to exclude "jewellery" from the purview of exemption under Clause (viii) of Section 5(1).

11. As noticed earlier by the Finance (No. 2) Act of 1971 though Clause (viii) has been amended with retrospective effect from April 1, 1963, two provisos and two

Explanations, including Explanation 1, were added with prospective effect from April 1, 1972. In view of the amendment brought about to Section 5 of the Act, it has been contended on behalf of the assessee that the exclusive definition of "jewellery" as provided by Explanation 1 is applicable only to cases which are governed by the prospective operation of Explanation 1. The Legislature having enacted Explanation 1 to the Act prospectively, the same cannot be taken aid of for interpreting the term "jewellery" in Clause (viii) of Sub-section (1) of Section 5 of the Act. It is, therefore, contended that ornaments made of gold, silver or platinum without containing any precious or semi-precious stone are not jewellery within the meaning of that term in Clause (viii) of Section 5(1) of the Act. On the other hand, the Revenue contends that Explanation 1 has been added by way of abundant caution, and even without Explanation 1, giving to the term "jewellery" its ordinary meaning, it must be understood to mean not only ornaments studded with precious stones, but also ornaments made of gold, silver or other precious metal.

12. In Commissioner of Wealth Tax, Gujarat I Vs. Jayantilal Amratlal, , a Division Bench of the Gujarat High Court considered a similar question of law referred to it for its opinion. It was urged before the court that as the Legislature had thought fit to define the term "jewellery" by Explanation 1, which had been brought into effect from April 1, 1972, the court cannot, for purposes of the assessment years 1963-64 and 1964-65, consider the dictionary meaning of the term "jewellery" as including ornaments also and, therefore, in view of the fact that jewellery as defined by Explanation 1 now being excluded from the purview of the exemption under Clause (viii) could not be included in the net wealth of the assessee for the purposes of the wealth-tax. The submission was rejected by their Lordships of the Gujarat High Court observing that it did not stand to reason that the Legislature could have such intention of taking out the ornaments from the sweep of the meaning of the term "jewellery" and thereby continuing the benefit of exemption to the ornaments under Clause (viii) of Section 5(1). The obvious reasons were that the gold, silver or other ornaments set with the jewels could not have been, without any violence to the language, termed as articles other than jewellery. It drew support from the judgment of the same court in COMMISSIONER OF WEALTH-TAX, GUJARAT II Vs. MRS. ARUNDHATI BALKRISHNA., , wherein it was observed that the term "jewellery" was a collective description of jewellery as well as other ornaments of precious metal. It was, therefore, held that the definition given by Explanation 1 added by the Finance (No. 2) Act, 1971, in so far as it related to ornaments, could be only by way of greater caution, because Explanation 1 tries to include gold or silver or other metal ornaments set with precious stones as jewellery, which de hors the said definition, could not have been, undoubtedly, articles other than jewellery. It also rejected the submission urged on behalf of the assessee that by giving an inclusive definition to the term "jewellery" by Explanation 1 which had prospective operation, the Legislature tried to bring within the sweep of the term "jewellery" those articles which could not have been included otherwise. Their

Lordships, however, held that an interpretation clause which extends the meaning of the word does not take away its ordinary meaning. It, therefore, rejected the contention urged on behalf of the assessee that the inclusive definition given by the Legislature in Explanation 1 took away the primary and obvious meaning of the term "jewellery". It also considered the contention urged on behalf of the assessee that the court was not entitled to take the aid of Explanation 1 for the purpose of interpreting Clause (viii) of Section 5(1), since it must be assumed that Explanation 1 did not exist in the statute book in that relevant assessment year, and at the relevant time, since it took effect from April 1, 1972, whereas Clause (viii) of Section 5(1) stood amended retrospectively with effect from April 1, 1963. The court observed that it is well-established that a subsequent Act of Parliament does not afford any useful guide in the construction of the prior Act and the subsequent Act can be resorted to for purposes of construction of the prior Act only when both the Acts deal with the same subject and the part of the prior Act sought to be construed is equivocal and capable of different construction. The court, therefore, concluded that Explanation 1 to Section 5(1)(viii) of the Act having come into force only with effect from April 1, 1972, could not be considered as on the statute book in the relevant assessment years and for all intents and purposes, it would be a reference to a later Act of Parliament. As the natural meaning of the term "jewellery" was clear and precise, there was no justification for considering Explanation 1 for construing the term "jewellery" for purposes of the relevant assessment years. The word "include" though generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute, it was also susceptible of another construction, which may become imperative, if the context of the Act is sufficient to show that it was not merely employed for the purpose of adding to the natural significance of the words or expressions defined. It may be equivalent to "mean and include", and in that case it may afford an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions. The court summarised its opinion in the following words (at page 118) :

"Mr. Shah may be right that in a given context, the word "include" might import that the enumeration is exhaustive. In the ultimate analysis, however, it is always the question of legislative intent and we are of the opinion that having regard to the obvious fact that gold, silver or platinum ornaments studded with jewels could not have been articles otherwise than of jewellery, Parliament could have only by way of abundant caution thought fit to include the same articles in jewellery by Explanation 1, which has been made effective prospectively. The parliamentary exposition of the term "jewellery" so as to include ornaments studded with jewels could not have been, in our opinion, for purposes of enlarging the term of the meaning for the first time, and, therefore, to make it applicable prospectively. The interpretation canvassed on behalf of the assessee would defeat the legislative intent of removing, with retrospective effect from April 1, 1963, the cover of exemption to jewellery by excluding it from articles

intended for personal use of an assessee, because, on that interpretation advanced by Mr. Shah, the ornaments made of gold, etc., and studded with precious stones would be considered jewellery only from April 1, 1972. The result would be patently absurd, inasmuch as the articles admittedly of jewellery can be included in the net wealth of an assessee only from April 1, 1972. We cannot accept any such interpretation which would lead to such absurd result when the intention of Parliament in excluding the jewellery from the purview of exemption u/s 5(1)(viii) with effect from April 1, 1963, is manifestly clear in the Finance (No. 2) Act, 1971. As stated by us, it is only by way of greater caution that the ornaments of gold, etc., have been also included along with the other articles such as furniture, apparel, etc., studded or sewn with jewels which could not have been obviously termed as jewellery but for the inclusive definition given in Explanation 1 and to that extent the said Explanation is prospective. In that view of the matter, therefore, the last contention of Mr. Shah that this definition is exhaustive should be rejected. Mr. Shah, therefore, ultimately urged that when two reasonably possible interpretations are open, the court should prefer one which would be favourable to the assessee. In our opinion, the question of preference does not arise as the interpretation canvassed on behalf of the assessee cannot be said to be a reasonable or possible interpretation."

13. In an earlier decision in CWT v. Rajeshwar Parshad [1975] Tax LR 194, a Division Bench of the High Court of Punjab and Haryana took the same view. In that case, it was urged on behalf of the assessee that there was a difference between the ornaments and jewellery. The ornaments were normally of gold and the jewellery was embedded with precious stones. The contention was negatived by the court in the following words (at page 196) :

"It appears from the order of the Tribunal that they were of the view that there is a difference between the "ornaments" and "jewellery". Both these expressions are not defined. Therefore, we have to fall back on the dictionary meaning. In Shorter Oxford English Dictionary "jewellery" means "jewellers" work ; gems or ornaments made or sold by the jewellers ; jewels collectively, or as a form of adornment". The word "jewel" means, according to this dictionary "an article of value used for adornment usually of the person ; a costly ornament especially one made of gold, silver, or precious stones". In the same dictionary, the meaning of the word "ornament" is stated to be "any adjunct or accessory ; equipment, furniture, attire, trapping anything used or serving to adorn; a decoration, embellishment. ..." It may be mentioned that these words are not terms of art and what has to be seen is what in fact are the articles or, in other words, whether the articles fall within the ambit of the word "jewellery". It is not disputed that these ornaments are of gold and are meant for wearing on the person of the assessee. Therefore, they would fall within the ambit of the phrase "jewellery". No playing with words will take them out of the category. In our opinion, the Tribunal fell in this error and that has led to a wrong decision of the matter."

14. The Allahabad High Court in Commissioner of Wealth-tax Vs. His Highness Maharaja Vibhuti Narain Singh, , agreeing with the view of the Gujarat High Court answered the reference before it in favour of the Revenue. After noticing the judgment of the Supreme Court in Commissioner of Wealth-tax, Gujarat Vs. Arundhati Balkrishna, and the amendments to the Act thereafter it observed (at page 248) :

"The Explanation made it quite clear that the term "jewellery" was taken in its wider meaning. It included ornaments whether studded with precious jewels or not. It was, however, argued that the Explanation was prospectively added. It was not available for an assessment year prior to 1972. We are unable to agree. The phrase "but not including jewellery" was added with effect from April 1, 1963. The word "jewellery" as commonly understood includes ornaments made of precious stones. In our opinion, the Explanation only made explicit what was implicit in the provision from its inception. This view finds support from the decision of the Gujarat High Court in Commissioner of Wealth Tax, Gujarat I Vs. Jayantilal Amratlal, . We are in respectful agreement with the Gujarat High Court."

15. The Delhi High Court in Commissioner of Wealth Tax Vs. Smt. Savitri Devi, after careful consideration of the decisions on the point held (at page 530):

"It would appear to us that the word "jewellery" in common parlance especially in India would certainly include ornaments for personal adornment that are made from gold irrespective of whether they are studded with precious stones or not. When an Indian girl talks of her jewellery, she certainly means to include therein her gold bangles, chain, anklets, etc., even though they are not studded with precious or semiprecious stones. The difference sought to be made out between the two appears to us to be artificial."

16. It agreed with the view of the Punjab and Haryana, Gujarat and Allahabad High Courts. It did not agree with the contrary view of the Orissa, Calcutta and Madhya Pradesh High Courts. After noticing the contrary view, their Lordships observed (at page 531) :

"We do not agree. We feel that the word "jewellery" as set out in the dictionaries as above noticed and as understood in common parlance, certainly includes gold ornaments. Gold ornaments made for personal use are almost always a jeweller's job and cannot be made by just anyone. A jewel itself is a costly ornament especially one made of gold, silver or precious stones. Precious stones are not a necessary ingredient to make a piece of jewellery. Exquisite filigree gold and silver jewellery is made in Orissa and other parts of the country and can certainly not be made by any one other than an expert jeweller. The Hindi word for jewellery "gehena" would certainly include such jewellery within its ambit. It is unthinkable that a "gold "champakali" or a "hanali" or a wedding ring is not jewellery just because it is not studded with stones. It would appear to us that there is nothing redundant or absurd in the Explanation being prospective. The

terms of the Explanation cannot take away the ordinary meaning of the word "jewellery". In any case, the Explanation does not deal with gold ornaments only but also elucidates, *inter alia*, that even if gold ornaments, etc., are sewn into any wearing apparel they would be jewellery ; this is certainly an extended meaning of the word and not one as used in common parlance ; similar is the position with regard to precious or semi-precious stones whether set in any furniture, utensil or other article or worked or sewn into any apparel or not. The artificially enlarged meaning as extended by the prospective definition provided for in Explanation 1 abovementioned also includes by way of abundant caution the natural meaning of the term. It has apparently been included so that the common parlance meaning should not escape attention."

17. The Delhi High Court has reiterated its above view in two subsequent judgments in Commissioner of Wealth Tax, Delhi-III Vs. Rukmani Devi, and Commissioner of Wealth Tax Vs. Smt. Ananti Devi, .

18. There are two decisions of the Orissa and Calcutta High Courts to the contrary, reported in the same volume of the "income tax Reports". The decision of the Orissa High Court is CWT v. Binapani Chakraborty [1978] 114 ITR 82 and that of the Calcutta High Court in Commissioner of Wealth Tax Vs. Aditya Vikram Birla, .

19. In Binapani Chakraborty's case [1978] 114 ITR 82 , the Orissa High Court noticed the decision of the Supreme Court in Commissioner of Wealth-tax, Gujarat Vs. Arundhati Balkrishna, . It noticed the amendment of the Act which came after the aforesaid judgment of the Supreme Court. The discussion is contained in one paragraph of the judgment which is as follows (at page 84) :

"In view of the decision of the Supreme Court and in view of the clear provision that Explanation 1 has no retrospective effect, in our opinion, the Tribunal took the right view when it came to the conclusion that jewellery incorporated in Clause (viii) shall have the meaning as given by the Supreme Court to the term and the legislative meaning given to the term by Explanation 1 shall operate from April 1, 1972. In that view of the matter, the deletion directed by the Tribunal of the value of the gold ornaments from the taxable net wealth was justified,"

20. I find it difficult to agree with the view of the Orissa High Court. The Supreme Court in Commissioner of Wealth-tax, Gujarat Vs. Arundhati Balkrishna, did not consider the question whether "jewellery" included gold ornaments or whether that term included only ornaments embedded with jewels and precious stones. The question before the Supreme Court was entirely different and the judgment of the Supreme Court renders no assistance in giving meaning to the word "jewellery", in the context it has arisen in the instant cases. The decision of the Orissa High Court noticed Explanation 1, which was added with effect from April 1, 1972. The judgment proceeds on the basis that but for Explanation 1, the term "jewellery" would not have included ornaments made of gold, silver or

any other precious metal which did not contain precious or semi-precious stones. It does not appear from the judgment that the question as to what "jewellery" means in ordinary parlance, was agitated before the court.

21. The Calcutta High Court in *Commissioner of Wealth Tax Vs. Aditya Vikram Birla*, held that the dictionary meaning of "jewellery" was not so wide or clear as to bring in all valuable ornaments within its fold. On the contrary, in popular parlance "jewellery" connotes use of stones, precious, semiprecious or even imitation, in the ornament concerned. Proceeding on this basis, and not finding it safe to go only by the original and modern English meaning, their Lordships observed that what is to be kept in view is the widespread use of ornaments and jewellery in this country and the specific connotation of the various types of jewellery in use in the country and described in the various local languages. Proceeding on such basis their Lordships considered the amendment introduced by the Finance (No. 2) Act, 1971, and came to the conclusion that by such amendment the meaning of the word "jewellery" was extended to include ornaments made of gold, silver, platinum or any other precious metals whether or not containing any precious or semi-precious stone. If the contention for the Revenue that in its ordinary meaning the term "jewellery" always included all ornaments made out of precious metals with or without stones, was accepted, the introduction of the above Explanation to Section 5(1)(viii) with prospective effect would be redundant and also absurd. Their Lordships agreed with the view of the Orissa High Court in *Smt Binapani Chakraborty's case* [1978] 114 ITR 82 and did not approve of the view of the Gujarat High Court in *Commissioner of Wealth Tax, Gujarat I Vs. Jayantilal Amratlal*, .

22. A Full Bench of the Madhya Pradesh High Court in *Commissioner of Wealth-tax Vs. Smt. Tarabai Kanakmal*, agreed with the view of the Orissa and Calcutta High Courts and did not approve of the view held by the Gujarat, Allahabad and Punjab and Haryana High Courts. Their Lordships after considering the dictionary meaning given to "jewellery" and "jewel" observed that although the dictionaries are not dictators of statutory construction, yet if there is nothing better to rely upon, the dictionaries may be used to find put the general sense in which any particular word is understood in common parlance. The ordinary meaning of the word "jewellery" was not so wide as to cover all ornaments. The ordinary meaning of the word as is known now will embrace precious or semiprecious stones and gold and silver ornaments which contain precious or semi-precious stones. It was in this sense that the word "jewellery" as used in Clause (viii) has to be understood before April 1, 1972. The submission that the inclusive definition contained in the Explanation, which became effective from April 1, 1972, was added merely as a matter of abundant caution, was rejected, as in their opinion it was clearly intended to give a wider meaning to the word "jewellery" with effect from April 1, 1972. The very fact that the words "but not including jewellery" were retrospectively added with effect from April 1, 1963, and the Explanation was added with effect from April 1, 1972, by the same Finance Act in Section 5(1)(viii), gave out a clear intention of Parliament that the

wider meaning of the word "jewellery" as contained in the Explanation, was not to be applied for any assessment year prior to April 1, 1972. Their Lordships noticed that the dictionary meaning of the words "jewel" and "jewellery" would go to show that although these words in generic sense are used to denote costly ornaments made of gold and silver, whether they were studded with precious stones or not, yet this wide meaning has become obsolete and these words are now restricted to precious stones and ornaments containing precious stones.

23. The Rajasthan High Court in *Hanuman Mal Sekhani Vs. Commissioner of Wealth-tax*, preferred the view taken by the Orissa, Calcutta, Punjab and Haryana and Madhya Pradesh High Courts, to the view taken by the Gujarat, Allahabad and Delhi High Courts. After noticing the divergent views on the subject their Lordships concluded thus (at page 374) :

"Thus, a consideration of the provisions of Section 5(1)(viii) and the amendment introduced therein by the Finance (No. 2) Act, 1971, with retrospective effect from April 1, 1963, and the insertion of Explanation 1 in that sub-section prospectively with effect from April 1, 1972, go to show that Parliament intended that ornaments made of gold, silver or other precious metals would be included in the term "jewellery" only after Explanation 1 was added to Section 5(1)(viii) with effect from April 1, 1972, and earlier thereto gold, and silver ornaments could be included in jewellery only in case they were studded with precious or semi-precious stones or sewn into any wearing apparel."

24. The Gauhati High Court in *Commissioner of Wealth-tax Vs. Smt. Ratni Devi Beria and Smt. Nandkishore Devi Agarwalla*, has taken the same view and from the report it appears that the judgment of the Orissa High Court in *Smt Binapani Chakraborty's case* [1978] 114 ITR 82 was brought to its notice. However, though reference was made to the judgment of the Gujarat High Court, since that report was not shown to their Lordships, they did not feel it safe to take into consideration the ratio of that decision as mentioned in the A. I. R. Manual. Their Lordships considered the legislative changes brought about to Section 5 of the Wealth-tax Act and came to the conclusion that the intention of the Legislature was not to include gold ornaments within the definition of jewellery, prior to April 1, 1972. The question whether "jewellery" as understood in common parlance included gold ornaments, was neither agitated before the court nor decided by it

25. There is only one other decision of the Punjab and Haryana High Court which requires to be noticed. I have noticed the judgment of the same High Court in *CWT v. Rajeshwar Parshad* [1975] Tax LR 194, wherein the court took the view that ornaments made of gold, meant for wearing on the person of the assessee fall within the ambit of the phrase "jewellery". However, in *Smt. Meera Jaiswal Vs. Commissioner of Wealth-tax*, , a coordinate Bench of the same court took a different view. Agreeing with the view of the Calcutta and Orissa High Courts, and disagreeing with the view of the Allahabad and Gujarat High Courts, their Lordships held that in popular parlance "jewellery" connotes use of stones, precious, semiprecious or even imitation in the ornaments concerned. It was for

this reason that the Explanation was introduced and the meaning of the word "jewellery" was extended to include ornaments made of gold, etc. If in its ordinary meaning the term "jewellery" always included all ornaments made out of precious metals with or without stones, then the introduction of the Explanation to Section 5(1)(viii) with prospective effect would be redundant and also absurd. It is surprising that the earlier decision of a Division Bench of the same court in *CWT v. Rajeshwar Parshad* [1975] Tax LR 194, was not brought to its notice, for I am sure if the same was brought to its notice, the learned judges would have either followed the same as a binding precedent, or referred the matter for decision by a larger Bench. The decision appears to have been rendered per incuriam.

26. The crucial question, to my mind, that calls for an answer in these references is whether "jewellery" includes ornaments made of gold, silver, platinum or any other precious metal, or whether it must mean only those ornaments which have gems or precious stones studded in them. It cannot be disputed that the words "wearing apparel and other articles intended for the personal use of the assessee" in Section 5(1)(viii) of the Act includes jewellery. In *Commissioner of Wealth-tax, Gujarat Vs. Arundhati Balkrishna*, , the Supreme Court held that under the aforesaid provision, the value of all the jewellery intended for the personal use of the assessee stands excluded in the computation of the net wealth of the assessee. The deduction of Rs. 25,000 from out of the value of the jewellery u/s 5(1)(xv) as it then stood, was permissible, regardless of the fact whether the same was intended for personal use or not. Such being the ratio, the decision is of no assistance in answering the question that arises for consideration in the instant case.

27. So far as the amendments brought about by the Finance (No. 2) Act of 1971 are concerned, it must be noticed that the exclusion of jewellery from the exempting provision came into effect retrospectively, from April 1, 1963. Having regard to the well-settled principles of interpretation, it must be assumed that "jewellery" was excluded from the purview of exemption granted by Section 5(1)(viii) of the Act from April 1, 1963. Explanation 1 was inserted prospectively with effect from April 1, 1972. Giving to the fiction its full meaning, it must be assumed that during the assessment years in question, Explanation 1 was non-existent, whereas "jewellery" was includible in the net wealth of the assessee. In the absence of any statutory definition, "jewellery" had to be given its natural meaning, and understood in the same way as in ordinary parlance. Obviously, therefore, if without reference to Explanation 1, it could be held that "jewellery" includes not only ornaments studded with gems, precious stones, etc., but also includes ornaments made of gold, silver, platinum, or any other precious metal, the subsequent insertion of Explanation 1 must be understood to be by way of abundant caution. If, on the other hand, it is held that "jewellery" cannot be understood to include ornaments made of gold, silver, platinum and other precious metals, without gems or precious stones studded or embedded in them, Explanation 1 must be understood as an inclusive definition giving an extended

meaning to "jewellery" so as to include that, which, but for the inclusive definition, could not be considered to be "jewellery". In my view, therefore, the fact that the amendment to Section 5(1)(viii) was effected retrospectively, while Explanation 1 was added prospectively, cannot be of much significance in interpreting the word "jewellery" in Section 5(1)(viii) of the Act, as it stood in the years of assessment in question. It cannot be lost sight of that an Explanation only functions to explain the meaning and effect of the main provision to which it is an Explanation, and to clear up any doubt or ambiguity in it.

28. The dictionary meaning of "jewellery" appears to be wide enough to include articles of gold and other precious metals used for personal adornment. Jewellers' work ; gems or ornaments made or sold by the jewellers ; jewels collectively, or as a form of adornment, come within the dictionary meaning of "jewellery". This has been exhaustively dealt with in various judgments to which reference has been made earlier. The Madhya Pradesh High Court observed that a perusal of the dictionary meaning of the words "jewel" and "jewellery" will go to show that although these words in a generic sense were used to denote costly ornaments made of gold or silver, whether they were studded with precious stones or not, yet this wide meaning has become obsolete and these words are now restricted to precious stones and ornaments containing precious stones. The Calcutta High Court observed that the dictionary meaning of the word "jewellery" was not so wide or clear as to bring in all valuable ornaments within its fold. On the contrary, it appeared to their Lordships that in popular parlance "jewellery" connotes use of stones, precious, semiprecious or even imitation, in the ornament concerned. It was not safe to go only by the original and modern English meaning having regard to the wide spread use of ornaments and jewellery in our country and the specific connotation of the various types jewellery in use in the country and described in various local languages. In Hindustani and Bengali at least a clear distinction is made between ornaments which are made of gold or silver and ornaments which are studded with stones. On the other hand, the Gujarat High Court as well as Delhi High Court took the view that the dictionary meaning of the word "jewellery" as well as what is understood by that word in ordinary parlance is the same. The Gujarat High Court held that so far as the dictionary definition is concerned, even according to the dictionary meaning, jewellery and ornaments can be collectively described as "jewellery". The natural impact of the term "jewellery" was well-known as a collective description of "jewel" as well as other ornaments of precious metals. Similarly, the Delhi High Court had no difficulty in holding that the word "jewellery" in common parlance, specially in India, would certainly include ornaments for personal adornment that are made from gold irrespective of whether they are studded with precious stones or not. When an Indian girl talks of her jewellery, she certainly means to include therein her gold bangles, chain, anklets, etc., even if they are not studded with precious or semi-precious stones.

29. I am inclined to agree with the view expressed by the Gujarat and Delhi High Courts, because I have no hesitation in holding that "jewellery" connotes articles

made of precious metals and are meant for personal adornment. The fact that jewels or precious stones are embedded in such articles will not make any difference. The distinction sought to be made between ornament and jewellery to my mind is artificial. It may be that in different parts of the country ornaments made only of gold or other precious metal may be described in a particular way and different from ornaments which are studded with any precious or semi-precious stones. That, however, will not make any difference to the meaning of the word "jewellery", because that must include ornaments meant for personal adornment made of gold, silver or any other precious metal whether or not studded with precious or semi-precious stones. Equally, there appears no reason to impute an intention to the Legislature that by excluding the jewellery from the exemption clause, it purported to exclude only ornaments studded with precious or semi-precious stones and not ornaments made of gold, silver or other precious metal. The word "jewellery" has been used in a generic sense as to include both the above categories. In the context of the Wealth-tax Act, it stands to reason that the Legislature did not intend to include within the purview of exemption valuable articles such as "jewellery" while granting exemption for the value of furniture, household utensils, wearing apparel intended for personal or household use of the assessee.

30. If it is held that jewellery includes ornaments made of gold, silver, platinum, whether or not studded with precious stones, it would not be permissible to give to the word a narrow meaning as to exclude ornaments made only of precious metals, merely because an Explanation added subsequently clarified that jewellery would include ornaments made of gold, silver or any other precious metal or alloy whether or not containing any precious or semi-precious stone. The Explanation merely made explicit what was implicit in the earlier provision.

31. In this view of the matter, the answer to both the questions referred to this court must be in the affirmative, in favour of the Revenue and against the assessee. They are answered accordingly.

K. Venkataswami C.J.

32. I agree.