(1997) 11 MAD CK 0120

In the Madras High Court

Case No : T.C.P. No''s. 624 and 625 of 1997

Commissioner of Wealth-tax APPELLANT

Vs

T.M. Joseph RESPONDENT

Date of Decision : 17-11-1997

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

Citation : (1999) 235 ITR 321

Hon'ble Judges : K.P. Sivasubramaniam, J;Janarthanam, J

Bench : Division Bench

Advocate : Mrs. Chitra Venkataraman for C.V. Rajan, for the Appellant; Philip George, for the Respondent

Judgement

Janarthanam, J.—Both these tax case petitions are filed by the Commissioner of Wealth-tax, Tamil Nadu-III, Madras, u/s 27(3) of the Wealth-tax Act, 1957, for issuance of a, direction to the Tribunal to state a case and refer the common questions of law, as below, for the opinion of this court :

"(1) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that while valuing the unquoted equity shares, the valuation should have been on yield basis Only ?

(2) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that for purposes of valuation of unquoted equity shares, rule 1D of the Wealth-tax Rules, 1957, is only directory and not mandatory ?"

2. The assessee - Mr. T. M. Joseph, Madras, an individual, it appears, was holding 1,800 unquoted equity shares in Bengal Marines (P.) Ltd. He valued the shares on yield basis in the wealth-tax proceedings.

3. The Assessing Officer, while framing the assessment valued the shares on the break-up value method basis under rule 1D of the Wealth-tax Rules.

4. On appeal, the Commissioner of Wealth-tax (Appeals), Tamil Nadu-III, Madras, accepted the claim of the assessee, following the decision of the Supreme Court in Commissioner of Gift Tax, Bombay Vs. Smt. Kusumben D. Mahadevia, and the decision of this court in Commissioner of Wealth Tax, Coimbatore Vs. Sabita Chandran, and Commissioner of Wealth Tax Vs. Sharbati Devi Jhalani, .

5. The Revenue appealed to the Tribunal. The Tribunal, in turn, following the decision of this court in K.M. Mammen Vs. Wealth-Tax Officer, City Circle-II (1) Madras, and also the decision of the Supreme Court in Commissioner of Gift Tax, Bombay Vs. Smt. Kusumben D. Mahadevia, held that the shares should be valued on the yield method.

6. The Revenue, aggrieved by the decision of the Tribunal, filed a reference application to the Tribunal u/s 27(1) of the Wealth-tax Act requesting it to state a case and refer the common questions of law, arising out of the order of the Tribunal, as stated above.

7. The Tribunal, by its order, dated September 29, 1993, rejected the reference application and refused to state a case, as in its view, there is no referable question of law arising out of the order, giving rise to the present actions-Tax Case Petitions Nos. 624 and 625 of 1997.

8. The arguments of Mrs. Chitra Venkataraman, learned counsel representing Mr. C. V. Rajan, learned junior standing counsel for Income Tax cases representing the Revenue, and Mr. Philip George, learned counsel appearing for the respondent, were heard.

9. The said learned counsel representing the Revenue drew our attention to a recent decision of the apex court of this country in the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, , wherein their Lordships of the Supreme Court, referring to a catena of decisions emerging from the Supreme Court, inclusive of the decision in Commissioner of Gift Tax, Bombay Vs. Smt. Kusumben D. Mahadevia, , ultimately held that the valuation of the unquoted shares should be made on the basis of the break up method under rule 1D of the Wealth-tax Rules mandatorily and no option is inhering in favour of the Assessing Officer to value such shares in any other method.

10. On the face of the ratio or rule laid down in Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, , it goes without saying that there arise referable common questions of law and, therefore, it is, we direct the Tribunal to state a case and refer the common questions of law, as stated above, for the opinion of this court.

11. Both these tax case petitions are thus disposed of.

