(1989) 01 MAD CK 0021

In the Madras High Court

Case No : Tax Case No. 1011 of 1979

Commissioner of Wealth-Tax APPELLANT

Vs

V. Vatsala RESPONDENT

Date of Decision : 20-01-1989

Acts Referred:

Wealth Tax Act, 1957 — Section 18(1)

Citation : (1989) 76 CTR 130 : (1989) 177 ITR 120 : (1989) 43 TAXMAN 171

Hon'ble Judges : V. Ratnam, J;Bhakthavatsalam, J

Bench : Division Bench

Advocate : N.V. Balasubramaniam, for the Appellant; Janarthana Raja, for the Respondent

Judgement

Ratnam, J.—In this reference u/s 27(3) of the Wealth-tax Act, 1957 (hereinafter referred to as ""the Act""), the questions of law referred for

the opinion of this court are as follows:

(1) Whether, on the facts and in the circumstance of the case, the Tribunal was justified in holding that the provisions of section 18(1)(c) of the

Wealth-tax Act, 1957, are not attracted to the assessee''s case for the assessment year 1973-74 ?

(2) Whether the finding of the Tribunal that the assessee had not deliberately furnished any inaccurate particulars of wealth is based on relevant

materials and is a reasonable view to be taken on the facts of the case ?

2. The assessee is an individual and in relation to the valuation date March 31, 1973, relevant for the assessment year 1973-74, she filed a return

on June 22, 1973, admitting a net wealth of Rs. 97,345. This included two items of immovable property, viz., a house bearing door No. 3,

Bharathi Nagar First Street, T. Nagar, Madras, valued at Rs. 40,000 and door No.

22, Anderson Street, Madras, valued at Rs. 1,00,000. We

are not concerned in this reference with the latter item of immovable property. On October 6, 1974, the assessee entered into an agreement for the

sale of property bearing door No. 3, Bharathi Nagar First Street, T. Nagar, Madras, in favour of two persons for Rs. 75,000 and received an

advance of Rs. 20,001 on that day and agreed to receive the balance of Rs. 54,999 within four months from that day, at the time of registration of

the sale deed. Subsequently, on December 24, 1973, the assessee filed revised return including the value of certain jewellery which had not been

originally shown, but retaining the value of the immovable properties a shown earlier, while completing the assessment, on March 27, 1974, the

Wealth-tax Officer, in respect of the property bearing door No. 3. Bharathi Nagar First Street, T. Nagar, Madras, took the view that the value of

Rs. 40,000 returned was not acceptable as that property had been subsequently sold in January 1974 for Rs. 70,000, deducting the stamp

expenses, etc., though the total sale price was Rs. 75,000, and instead of the returned value of Rs. 40,000, adopted a value of Rs. 70,000. With

reference to the difference of Rs. 30,000 in the value of this item of property, penalty proceedings were initiated and the assessee contended that

the assessee had purchased the property in question under hire-purchase agreement with Bharathi Nagar Co-operative House Construction

Society on June 3, 1971, for a consideration of Rs. 22,365 and it valuation in 1968 was Rs. 38,000, as it was fetching only a monthly rental of Rs.

250 even at the time of sale and, therefore, there was no concealment and the penalty proceedings should be dropped. The Inspecting Assistant

Commissioner was of the view that the provisions of section 18(1)(c) of the Act Stood attracted as the assessee had not admitted the correct

market value of the property on March 31, 1973, and that the valuation report of 1968 could not be relied upon as there had been a steep rise in

the value of properties in that areas and the rental yield would not be relevant. Considering the entering into of the agreement for sale of the

property by the assessee in October, 1973, and the value set out therein and the receipt of an advance of Rs. 20,001 by the assessee and the

omission by the assessee to mention that value in the revised return, the Inspecting Assistant Commissioner imposed a penalty of Rs. 30,000 on the assessee. On appeal by the assessee before the Tribunal, the Tribunal found that the offer for the sale of the property was received by the assessee

only subsequent to the filing of the return and the value reflected in the agreement entered into in October, 1973 was not indicative of the price as

on March 31, 1973, and, as such, it cannot be concluded that the assessee had deliberately furnished inaccurate particulars of had concealed

wealth and, therefore, the imposition of the penalty cannot be sustained.

3. The principal contention of learned counsel for the Revenue is that the fact that the assessee, in the revised return filed by her on December 24,

1973, after entering into an agreement for the sale of the property in October, 1973, had not disclosed the value as reflected in the agreement,

clearly indicated that she had concealed the particulars of assets or furnished inaccurate particulars of assets or debts and that would justify the levy

of penalty. On the other hand, learned counsel for the assessee submitted that inasmuch as the property had been disclosed, though a low value,

according to the Revenue, had been put on it, the expression ""value"" cannot be equated to particulars and, as such there can be no concealment of

particulars or furnishing of inaccurate particulars, when the property itself had been disclosed. Reference in this connection was also made to the

vies expressed by Sri A. C. Sampath Iyengar in Three new taxes, Sixth Edition, Volume 1, at page 749.

4. We have carefully considered the rival submissions. We are of the view that it is unnecessary, on the facts and circumstances of this case, to

consider and decide the question whether inaccuracy in the value declared would amount concealment of particulars or furnishing of inaccurate

particulars of an asset. It is seen that the property in question was a single stored house in an areas of 4,574 sq. ft. and had been purchased by the

assessee from the Bharathi Nagar Co-operative House Construction Society for a sum of Rs. 22,365 under a document dated June 10, 1971. The

property was valued in 1968 at Rs. 38,000 and that really formed the basis of the value as returned by the assessee for the assessment year in

question as well as for the prior year and that value had been accepted. It is this value which was adopted by the assessee when she filed a return

of wealth for the assessment year in question on June 22, 1973. At that time, there was absolutely no negotiation for the sale of her property or any offer for the same and as matters stood on the day on which she filed the return, it cannot be said that the assessee had furnished inaccurate

particulars regarding the value of the property. The adoption of the value of Rs. 40,000 with reference to this item of property as in the previous

years cannot but bona fide when the return of wealth was field, it was latter in October, 1973, that she had entered into an agreement for the sale

of the property for Rs. 75,000, though the actual sale price was only Rs. 70,000, after deducting stamp and other related expenses. It is true that

the assessee filed revised return on December 24, 1973 adding the value of some jewellery not included in the earlier return and retaining the value

of immovable properties as before. Though this was done after the entering into of the agreement for the sale of the property by the assessee in

October, 1973, we cannot project backwards the value reflected in the agreement entered into in October, 1973, to the valuation date march 31,

1973. In other words, the value reflected in the agreement entered into in October, 1973, cannot be considered to be the value as on March 31,

1973. So looked at, the assessee cannot be stated to have concealed any particulars even with reference to the value of the property. There is,

therefore, no question of the assessee having concealed particulars of any asset or furnished inaccurate particulars of any asset attracting the levy of

penalty u/s 18(1)(c) of the Act. We hold that the Tribunal was right in the view it took that no case is made out for the levy of penalty. We,

therefore, answers the questions referred in the affirmative and against the Revenue. The assessee will be entitled to the costs of this reference.

Counsel''s fee Rs. 500.

