(2002) 02 RAJ CK 0136

In the Rajasthan High Court

Case No : WT Ref. No. 77 of 1981

Commissioner of Wealth Tax APPELLANT

Vs

Vallabh Das RESPONDENT

Date of Decision : 14-02-2002

Acts Referred:

Voluntary Disclosure of Income and Wealth Act, 1976 — Section 13, 13(1)
Wealth Tax Act, 1957 — Section 7

Citation : (2003) 179 CTR 429

Hon'ble Judges : Y.R. Meena, J;A.C. Goyal, J

Bench : Division Bench

Advocate : J.K. Singhi, for the Appellant; J.K. Ranka, for the Respondent

Judgement

1. On an application filed u/s 27(1) of the WT Act, 1957, the Tribunal has referred the following questions for the opinion of this Court :

1. "Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the market value of the property ''Himanshu Bhawan'' should be determined by applying a multiple of 10 to the net annual value ?"

2. "Whether, on the facts and in the circumstances of the case, the Tribunal was right in allowing a deduction of Rs. 50,000 from the fair market value of ''Himanshu Bhawan'' on account of declaration made by the assessee u/s 3(1) r/w Section 13 of the Voluntary Disclosure of Income and Wealth Act, 1976 ?"

2. The assessee is individual. The relevant assessment years are 1969-70, 1970-71, 1971-72, 1972-73, 1973-74 and 1974-75, The assessee inter alia owns property known as ''Himanshu Bhawan'', Jaipur. The WTO has adopted the value of this property on the basis of report of the Valuation Officer. The WTO has determined the value, of this property on rent capitalisation method. While doing so, the WTO has applied the multiplier of 13.333 to the net annual value and that has been disputed.

3. In appeal before AAC, the AAC reduced the multiplier to 2 of the net rent. In

appeal before the Tribunal, the Tribunal has applied 10 times of the net annual rent.

4. Mr. Ranka, learned counsel for the assessee, brought to our notice that while valuing the building even the 8 times multiplier be taken as just and reasonable in case of Commissioner of Income Tax, Gujarat II Vs. Vimlaben Bhagwandas Patel and Kamlaben Kanjibhai Patel, He further submits that in valuing the property in the case of Aditya Narain Roy and Another Vs. Commissioner of Wealth Tax, , the Calcutta High Court has also taken the multiplier of 8-1/2 times. He further submits that in the case in hand, the rent capitalisation method has been taken 10 times multiplier.

5. Considering the view taken by different High Courts, there is no justification to interfere in the view taken by the Tribunal of valuing the property by rent capitalisation method taking 10 times multiplier of the net annual rent.

6. The issue in question No. 2 relates to as to whether the assessee is entitled for deduction of Rs. 50,000 out of the value of the building after multiplying the net annual rent by 10 times. The Tribunal has allowed Rs. 50,000 deduction in the light of the provisions of Section 3(1) r/w Section 13 of the Voluntary Disclosure of Income & Wealth Act, 1976.

7. The fact in the case in hand is that assessee has disclosed Rs. 50,000 under Voluntary Disclosure Scheme and claimed deduction of Rs. 50,000 out of the value of the house in question.

8. Clause (c) of Sub-section (1) of Section 13 of the Voluntary Disclosure of Income and Wealth Act, 1976, provides that notwithstanding anything contained in the WT Act or any rules made thereunder, wealth-tax shall not be payable by the declarant in respect of the assets referred to in Clause (a) or Clause (b) and such asset shall not be included in his net wealth for the said assessment year or years.

9. Mr. Ranka clarified that while disclosing Rs. 50,000, he made the disclosure and clarified that this amount has been invested in the construction of the house in question, so that forms part of the assets and eligible for exemption under Clause (c) of Sub-section (1) of Section 13 of the Act of 1976. This fact has not been controverted or dislodged in Tribunal.

10. No interference is called for in the order of the Tribunal.

11. In the result, we answer both the questions in affirmative i.e., in favour of the assessee and against the Revenue.

12. Reference so made stands disposed of accordingly.

