

(2002) 02 RAJ CK 0107
In the Rajasthan High Court
Case No : .W.T.R. 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(1), 3(1)
Wealth Tax Rules, 1957 — Rule 1BB

Citation : (2003) 262 ITR 319

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 Wealth-tax 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 ten 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) read with Section 13 of the Voluntary Disclosure of Income and Wealth Act, 1976 ?"

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

3. In appeal before the Assistant Commissioner, the Assistant Commissioner reduced the multiplier to two of the net rent. In appeal before the Tribunal, the Tribunal has applied ten times the net annual rent.

4. Mr. Ranka, learned counsel for the assessee, brought to our notice that while valuing the building even the eight 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 ten 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 ten 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 ten times. The Tribunal has allowed Rs. 50,000 deduction in the light of the provisions of Section 3(1) read with Section 13 of the Voluntary Disclosure of Income and Wealth Act, 1976.

7. The fact in the case in hand is that the assessee has disclosed Rs. 50,000 under the 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 Wealth-tax 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 the Tribunal.

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

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

12. Reference so made stands disposed of accordingly.