
(1994) 12 BOM CK 0004

In the Bombay High Court

Case No : Wealth-tax Reference No. 4 of 1986

Commissioner of Wealth-tax

APPELLANT

Vs

Vidur V. Patel

RESPONDENT

Date of Decision : 06-12-1994

Acts Referred:

Wealth Tax Act, 1957 — Section 2, 27(1), 7
Wealth Tax Rules, 1957 — Rule 1D

Citation : (1995) 124 CTR 343 : (1995) 215 ITR 30

Hon'ble Judges : S.M.Jhunhunwala, J;B.P. Saraf, J

Bench : Division Bench

Advocate : G.S. Jetley, for the Appellant;

Judgement

Dr. B.P. Saraf, J.—By this reference u/s 27(1) of the Wealth-tax Act, 1957, the Income Tax Appellate Tribunal has referred the following questions of law to this court for opinion at the instance of the Revenue :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that for the purpose of the valuation of the shares of Surat Cotton Spg. and Wvg. Mills Ltd., held by the Gargiben Trust, in which the assessee has reversionary interest, under rule 1D of the Wealth-tax Rules, 1957, the amount of advance tax paid by the company should not be deducted from the amount shown as provision for taxation in the balance-sheet of the company ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that compulsory deposit is not an asset within the meaning of section 2(e) of the Wealth-tax Act, 1957 ?"

2. The first question is covered by the decision of the Supreme Court in the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, . Following the same, it is answered in the negative and in favour of the Revenue.

3. So far as question No. 2 is concerned, the controversy involved therein is whether compulsory deposit is an "asset" within the meaning of section 2(e) of the Wealth-tax Act or not. The controversy arose in the course of assessment of the assessee under the Wealth-tax Act, 1957 ("the Act"), for the assessment years 1976-77 and 1977-78 as the assessee claimed that the amount standing to his credit in the Compulsory Deposit Scheme Account was not an asset within the meaning of section 2(e) of the Act and even if it was an asset, the value thereof could not be determined as per section 7 of the Wealth-tax Act. This claim of the assessee was rejected by the Wealth-tax Officer. On appeal, the Appellate Assistant Commissioner upheld the order of the Wealth-tax Officer in so far as it had held the compulsory deposit to be an asset. The Appellate Assistant Commissioner, however, held that only the discounted value of the deposit determined on actuarial basis as on the valuation date was includible in the net wealth of the assessee. He, therefore, directed the Wealth-tax Officer to include the actuarial value of the Compulsory Deposit Scheme Account in the net wealth of the assessee. The Revenue appealed to the Income Tax Appellate Tribunal ("the Tribunal"). The assessee also filed cross-objections. The Tribunal held that the amount standing to the credit of the assessee in the Compulsory Deposit Scheme Account was not includible in the net wealth of the assessee. Having regard to its above conclusion, the Tribunal did not decide the contention of the Revenue that the Appellate Assistant Commissioner erred in law in directing the Wealth-tax Officer to compute the value of the compulsory deposit on actuarial basis. The Revenue sought for reference u/s 27(1) of the Act, and, accordingly, the Tribunal has referred the two questions set out above to this court for opinion.

4. The controversy in this case revolves round the interpretation of the expression "assets" which has been defined in clause (e) of section 2 of the Wealth-tax Act, 1957 ("the Act"). The question is whether the amount standing to the credit of the assessee in the Compulsory Deposit Scheme Account is an "asset" within the meaning of the said clause or not. Clause (e) of section 2 of the Act, so far as relevant, as applicable to the assessment years 1970-71 to 1972-73, read as follows :

"2. (e) "assets" includes property of every description, movable or immovable, but does not include, - . . .

(2) in relation to the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year but before the 1st day of April, 1993 -

(i) animals;

(ii) a right to any annuity not being an annuity purchased by the assessee or purchased by any other person in pursuance of a contract with the assessee in any case where the terms and conditions relating thereto preclude the commutation of any portion thereof into a lump sum grant;

(iii) any interest in property where the interest is available to an assessee for a period not exceeding six years from the date the interest vests in the

assessee :. . . ."

5. The definition of "assets" is thus an inclusive definition. All properties of every description, movable or immovable, are included therein except those specifically excluded. So far as the meaning of "property" is concerned, it is well-settled that it is a term of the widest import and subject to any limitation which the context may require, it signifies every possible interest which a person can hold or enjoy. As observed by the Supreme Court in *The Commissioner, Hindu Religious Endowments, Madras Vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt.*, , there is no reason why this word should not be given a liberal or wide connotation and should not be extended to those well-recognised types of interest which have the insignia or characteristic of proprietary right. Compulsory deposit was made in this case by the assessee under the Compulsory Deposit Scheme, 1963, and the scheme framed thereunder. This Scheme was enacted to provide for the making of compulsory deposits at the rates provided in the scheme framed thereunder by certain categories of persons specified therein. The deposit made under the said scheme did bear simple interest at the rate of four per cent. per annum. The deposit so made in any year was repayable with interest thereon at any time after the expiry of three years from the end of the year in which the deposit had been made. Repayment could be made earlier also in case of genuine hardship. On a consideration of the above provisions of the Compulsory Deposit Scheme, 1963, it is clear that the amount standing to the credit of the assessee in the Compulsory Deposit Scheme Account falls within the expression "property of every description movable or immovable" used in section 2(e) of the Act. It does not fall in any of the exclusions specified therein. That being the position, there is no reason as to why the amount standing to the credit of the assessee under the Compulsory Deposit Scheme Account should not be treated as an "asset" within the meaning of section 2(e) of the Wealth-tax Act, 1957.

6. In the premises, we answer question No. 2 referred to us in the negative and in favour of the Revenue.

7. In the facts and circumstances of the case, there shall be no order as to costs.