

(1986) 10 RAJ CK 0049

In the Rajasthan High Court

Case No : Wealth-tax Reference No's. 104, 104A ad 104B of 1982

Commissioner of Wealth-tax

APPELLANT

Vs

Vimal Chand

RESPONDENT

Date of Decision : 23-10-1986

Acts Referred:

Wealth Tax Act, 1957 — Section 2

Citation : (1987) 62 CTR 10 : (1987) 167 ITR 319

Hon'ble Judges : N.M. Kasliwal, J; Mohini Kapur, J

Bench : Division Bench

Advocate : R.N. Surolia, for the Appellant;

Judgement

Kasliwal, J.—These three reference applications relate to the assessment years 1970-71, 1971-72 and 1972-73. The following identical question of law has been referred by the Income Tax Appellate Tribunal, Jaipur Bench, Jaipur, for our opinion :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that since the settlement was not the result of the application of any provision of the Income Tax Act and Wealth-tax Act, it was not Income Tax and wealth-tax liability within the meaning of Section 2(m)(iii) of the Wealth-tax Act, 1957, and that the liability pertaining to earlier years determined on March 26, 1975, was allowable as a deduction u/s 2(m) of the Wealth-tax Act for determination of the net wealth for the assessment year under consideration ?"

2. It is conceded by Mr. Surolia, learned counsel for the Department, that the above question of law is finally concluded by various decisions of the Supreme Court in Commissioner of Wealth Tax, Madras Vs. K.S.N. Bhatt, , Commissioner of Wealth Tax, Gujarat, Ahmedabad Vs. Vadilal Lallubhai and Others, , Commissioner of Wealth-tax, Gujarat Vs. Smt. Vimlaben Vadilal Mehta, , Commissioner of Wealth-tax Vs. Smt. Tarabai Kanakmal, , Commissioner of Wealth Tax, Kanpur Vs. J.K. Cotton Manufacturers Ltd., .

The Supreme Court in the above cases has held that in computing the net wealth of the assessee for wealth-tax, the liabilities towards Income Tax, wealth-tax and gift-tax, which crystallise on the relevant valuation date as determined in the respective assessment orders as liabilities, are to be deducted even though those assessment orders are finalised after the valuation date.

It has been further held in *Commissioner of Wealth Tax, Kanpur Vs. J.K. Cotton Manufacturers Ltd.*, as under (headnote) :

"Where the Income Tax Investigation Commission had by an order of settlement in 1952 determined the tax payable on secret profits made by the assessee-companies during periods prior to September 1, 1948, and had also permitted payment of the tax in instalments, the assessee-companies' balance-sheets did not reflect either those secret profits or assets representing those profits, and the net wealth of the companies was determined on the basis of their balance-sheets for the assessment year 1957-58.

Held, accordingly, (i) that the instalments of the tax whose payment had not yet fallen due on the valuation date were deductible as "debts owed" ; and

(ii) that their deduction was not excluded by Clause (a) or Clause (b) of Section 2(m)(iii) as they had not become due for payment before the valuation date and could not be said to be "outstanding" on the valuation date."

3. In view of the above authoritative pronouncements of their Lordships of the Supreme Court, the question referred to us is answered in the affirmative and against the Revenue. On the facts and circumstances of the case, there will be no order as to costs.