(1990) 06 BOM CK 0078

In the Bombay High Court

Case No : Wealth-tax Reference No. 67 of 1976

Commissioner of Wealth-tax APPELLANT

Vs

V.M. Shah RESPONDENT

Date of Decision : 21-06-1990

Acts Referred:

Citation : (1990) 06 BOM CK 0078

Hon'ble Judges : T.D. Sugla, J;Sujata V. Manohar, J

Bench : Division Bench

Advocate : G.S. Jetley, for the Appellant; S.J. Mehta, for the Respondent

Judgement

Mrs. Sujata v. Manohar J.

1. The following five questions have been referred to us u/s 27(1) of the wealth-tax Act, 1957 :

(1) Whether the adjustments prescribed in terms of section 7(2)(a) of the wealth-tax Act can be made to the balance-sheet in the case of an assessee who is carrying on a profession ?

(2) Whether, on the facts, rule 2C of the wealth-tax Rules is applicable in this case ?

(3) If the answer to question No. (2) is in the affirmative, whether it is permissible to make an adjustment which has the effect of substituting the mercantile system of accounting for the cash system of accounting ?

(4) If the outstanding fees of the firm are to be adjusted in the balance-sheet of the firm, whether outstanding liabilities of the firm should also be adjusted in the balance-sheet on accrual basis ?

(5) Whether, on the facts and in the circumstances of the case, the Tribunal rightly excluded from the net wealth of the assessee, the assessee''s share of the outstanding fees of the firm M/s. C. M. Shah and Co., Chartered Accountants,

estimated at Rs. 75,000 ?

2. It is accepted by both the sides that the decision in the case of CWT v. V. M. Shah (1988) 170 ITR 17 (Bom) governs this case, as also our decisions in Wealth-tax Reference No. 168 of 1976 Commissioner of Wealth Tax Vs. Vasantlal D. Mehta, along with Wealth-tax Reference No. 92 of 1975 Commissioner of Wealth-tax Vs. K.T. Divecha and others, delivered by us on June 11, 1990. We would like to clarify that income tax liability on outstanding fees cannot be considered as an accrued liability in a case where the professional has kept his accounts on cash basis for the purpose of Income Tax as set out in our above judgment. The questions are, accordingly, answered as follows :

3. Questions Nos. 1, 2 and 3 in the affirmative and in favour of the Revenue Question No. 4 in the affirmative and in favour of the assessee. Question No. 5 in the negative and in favour of the Revenue.

4. No order as to costs.

