(1998) 02 MAD CK 0127

In the Madras High Court

Case No : Tax Case No''s. 2062 and 2063 of 1984

Commissioner of Wealth Tax APPELLANT

Vs

V.T. Ramalingam RESPONDENT

Date of Decision : 18-02-1998

Acts Referred:
Wealth Tax Rules, 1957 — Rule 1D

Citation : (2002) 255 ITR 651

Hon'ble Judges : R. Jayasimha Babu, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; P.P.S. Janarthana Raja, for Subbaraya Iyer, Padmanabhan and Ramamani, for the Respondent

Judgement

R. Jayasimha Babu, J.—The question referred at the instance of the Revenue in respect of the assessee''s assessments for the assessment years 1974-75 and 1975-76 is, as to whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the arrears of dividends on cumulative preference shares should be deducted while working out the value of the shares of Thiru Arooran Sugars Ltd. ?

2. The assessee held 250 shares in the company. He had worked out the market value by applying Rule 1D of the Wealth-tax Rules, 1957, framed under the Wealth-tax Act, 1957, and did not deduct the arrears of dividends on the cumulative preference shares held by him, for the liabilities shown in the balance-sheet. The Wealth-tax Officer held that the amount could not be deducted as undeclared dividend for which monies had been set apart by the company, as the dividends had not been declared as on the valuation date of a general meeting of the company. The assessee appealed to the Commissioner of Income Tax (Appeals), who allowed the assessee''s claim by referring to Rule 1D, Explanation II(ii)(f) which refers to "any amount representing contingent liabilities other than arrears of dividends payable in respect of the cumulative preference shares". The Commissioner held that the arrears of dividends on cumulative preference shares

were not in the nature of a contingent liability and was not required to be deducted from the total liabilities of the company for the purpose of determining the value of the share under Rule 1D of the Act. The Tribunal has affirmed the view of the Commissioner.

3. We find no error in the order of the Commissioner and of the Tribunal. Rule 1D, Explanation II(f) of the Act is unambiguous. It clearly treats the arrears of dividends payable in respect of cumulative preference shares, as a liability for the purpose of determining the break up value under Rule 1D of the Rules. Explanation II Clause (ii) of Rule 1D states that,

the following amounts shown as liabilities in the balance-sheet shall not be treated as liabilities.

4. Sub-clause (f) under Clause (ii) of Explanation II of the Rules which requires that all amounts representing contingent liabilities not be treated as liability, specifically excludes the arrears of dividends payable in respect of cumulative preference shares.

5. The legislative intention clearly was to treat arrears of dividends payable in respect of cumulative preference shares, as a liability if so shown in the balance-sheet.

6. The question referred to us is, therefore, answered in the affirmative, against the Revenue and in favour of the assessee. Costs of Rs. 500 to the assessee.

