(1986) 01 DEL CK 0035

In the Delhi High Court

Case No : Wealth-tax Cases No''s. 59 to 61 of 1982

Commissioner of Welth Tax — APPELLANT

Vs

R.N. Goyal — RESPONDENT

Date of Decision : 23-01-1986

Acts Referred:

Citation : (1986) 51 CTR 226 : (1986) 160 ITR 901 : (1986) 26 TAXMAN 293

Hon'ble Judges : Yogeshwar Dayal, J;S. Ranganathan, J

Bench : Division Bench

Judgement

1. This order will dispose of Wealth-tax Cases Nos. 59, 60 and 61 of 1982 which are applications u/s 27(3) of the Wealth-tax Act, 1957, for directing the Income Tax Appellate Tribunal, Delhi Bench, to draw up a statement of the case and refer certain questions of law to this court which are said to arise out of the order of the Tribunal while disposing of the appeals for the assessment years 1963-64, 1964-65 and 1965-66.

2. The brief facts of the case are that wealth-tax returns for the assessment years 1963-64, 1964-65 and 1965-66, which had to be filed by the 30th June of the relevant year u/s 14(1) of the Wealth-tax Act, were not filed by the assessed. Notices u/s 17 were issued by the Wealth-tax Officer on February 8, 1971, for the assessment year 1963-64 and on December 28, 1971, for the assessment years 1964-65 and 1965-66. The returns for all the three years were filed by the assessed on September 22, 1973. The wealth assessed by the Wealth-tax Officer for these years exceeded the taxable limit and penalty proceedings for late submission of the returns were initiated by the Wealth-tax Officer u/s 18(1)(a) of the Wealth-tax Act. The Wealth-tax Officer found that the assessed had no reasonable cause for the late filing of the returns and he imposed substantial penalties for the aforesaid assessment years. The amount of penalty was computed on the basis that the defaults were continuing defaults and thus the penalty was payable as per law prevailing at the time during which the default continued.

3. The Tribunal found that penalty can be imposed only as per the law dealing with penalty as on the date the default occurred. Before the Tribunal, it was urged on behalf of the Commissioner that it is a case of continuous default and, Therefore, the law as it stood amended with effect from April 1, 1969, by the Finance Act, 1969, was applicable. The Tribunal decided against the submission of the Commissioner.

4. Thereafter, the Commissioner applied for the two questions mentioned in para. 4 of the application for being referred to this court. The Tribunal, however, declined to refer those questions. The two questions sought to be referred are as under :

"(i) Whether, on the facts and in the circumstances of the case, the Tribunal is correct in law in holding that the law applicable for levying the penalties should be the one applicable in the year when the return was due and not the date when the return was filed ?

(ii) Whether, on the facts and in the circumstances of the case, the Tribunal is legally correct in directing that the penalty u/s 18(1)(a) of the Wealth-tax Act for the late filing of the return should be calculated as per law applicable in the relevant assessment year, even in respect of the continuing default of delay after the law was amended with effect from April 1, 1969, by the Finance Act, 1969 ?"

5. Two decisions, one of the Allahabad High Court in the case of Commissioner of Wealth-tax Vs. Ram Narain Agrawal, and another of the Supreme Court in the case of Brij Mohan Vs. Commissioner of Income Tax , New Delhi, , have been brought to our notice. On the other hand, Mr. Mishra, who appears for the Commissioner, brought to our notice a latest decision of the Supreme Court in the case of Maya Rani Punj Vs. Commissioner of Income Tax, Delhi, . In view of this latest pronouncement, we are of the view that questions of law do arise out of the order of the Tribunal and we would accordingly direct the Tribunal to draw up a consolidated statement for all the three assessment years and refer the two questions mentioned above to this court. These petitions are disposed of accordingly.