(1998) 03 MAD CK 0064

In the Madras High Court

Case No : Tax Case No. 1960 of 1986 (Reference No. 1377 of 1986)

Controller of Estate Duty APPELLANT

Vs

Pavayammal RESPONDENT

Date of Decision : 24-03-1998

Acts Referred:
Estate Duty Act, 1953 — Section 59, 61, 73A

Citation : (1999) 240 ITR 198

Hon'ble Judges : P. Thangavel, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant;

Judgement

N.V. Balasubramanian, J.—This is a reference under the provisions of the Estate Duty Act, 1953, and the question of law referred at the

instance of the Revenue reads as under :

Whether, the Tribunal is correct in law in holding that on the facts of the case neither Section 61 nor Section 59 of the Estate Duty Act would

apply and the reassessment made is barred by time under the provisions of Section 73A ?

2. One G. Selvarajan died on June 2, 1974, and the accountable person of the deceased is one Pavayammal. The accountable person filed the

accounts of the estate originally on July 24, 1975. The Assistant Controller of Estate Duty completed the assessment on February 20, 1976,

determining the principal value of the estate at Rs. 1,48,238. In January, 1981, the accountable person, long after the completion of the

assessment, filed a revised account of the estate admitting an enhanced value of the estate at Rs. 1,59,773. The accountable person showed a sum of Rs. 92,698 in the revised statement as the amount due to the legal heirs of the deceased under the terms of the group insurance scheme and

claimed the same as exempt, relying on the decision of this court in the case of Controller of Estate Duty Vs. Estate of Late R. Ramanujam, . The

Assistant Controller of Estate Duty completed the assessment on February 12, 1981, determining the principal value of the estate at Rs. 2,52,472

but he declined to grant exemption of the money due from the group insurance on the ground that the decision of this court in Controller of Estate

Duty Vs. Estate of Late R. Ramanujam, , has not become final as an appeal was pending before the apex court. The accountable person

challenged the order of the Assistant Controller of Estate Duty before the Appellate Controller and it was urged on behalf of the accountable

person that the reassessment was not valid as no notice u/s 59 of the Estate Duty Act, 1953, was served. The Appellate Controller cancelled the

reassessment on the ground that the initiation of proceedings beyond the time limit prescribed u/s 73A(b) of the Estate Duty Act was not valid. The

Revenue preferred an appeal before the Tribunal and contended that the provisions of Section 73A would apply only for initiation of proceedings

by the Revenue authorities and not to the accounts filed voluntarily by the accountable person. The Tribunal rejected the contention that in view of

the bar imposed u/s 73A(b) of the Estate Duty Act, the reassessment made by the Assistant Controller of Estate Duty was not valid in law. The

Appellate Tribunal also rejected the contention that the provisions of Section 61 of the Estate Duty Act would apply, as the provisions of Section

61 would apply only to rectification of mistakes and no notice u/s 61 was issued by the Assistant Controller. The Tribunal, therefore, held that

neither the provisions of Section 59 nor the provisions of Section 61 were applicable and the reassessment made was held to be not valid. The

Revenue has challenged the order of the Appellate Tribunal and the question of law set out above has been referred for our opinion.

3. We are of the opinion, the Tribunal has come to the correct conclusion. Section 73A of the Estate Duty Act provides for limitation for

commencing proceedings for assessment or reassessment. Section 73A of the Estate Duty Act reads as under :

No proceedings for the levy of any estate duty under this Act shall be commenced--(a) in the case of a first assessment, after the expiration of five years from the date of death of the deceased in respect of whose property estate duty became payable ; and

(b) in the case of a reassessment, after the expiration of three years from the date of assessment of such property to estate duty under this Act.

Admittedly, on the facts of the case, it is not a case of first assessment as the first assessment was made by the Assistant Controller of Estate Duty

on February 20, 1976. It is a case of reassessment and u/s 73A of the Estate Duty Act, no proceedings for the levy of estate duty for

reassessment under the Act shall be commenced after the expiration of three years from the date of assessment of the property to estate under the

Estate Duty Act. Section 73A clearly imposes a ban to initiate proceedings after the expiration of three years from the date of assessment and we

have found that the original assessment was made on February 20, 1976, and the time limit for initiation of reassessment proceedings had already

expired on February 20, 1979, before the initiation of reassessment proceedings. The Assistant Controller of Estate Duty has no jurisdiction on the

basis of the accounts filed by the accountable person, as the reassessment made on February 12, 1981, is clearly barred by the provisions of

Section 73A(b) of the Estate Duty Act. The accountable person filed another account only in January, 1981. It is necessary to remember here that

the accountable person filed the revised accounts to get necessary certificate to pursue the matter to obtain succession certificate and in view of the

clear language of Section 73A(b) of the Estate Duty Act, that will not grant a fresh lease of time to initiate reassessment proceedings after the

expiry of three years from the original assessment. The Tribunal, in our opinion, has come to the correct conclusion in holding that the reassessment

made on February 12, 1981, was clearly barred by time. That apart, the initiation of reassessment proceedings commenced in January, 1981, after

filing of another account, and if the period of initiation of reassessment is taken into account, it is barred by Section 73A(b) of the Act.

4. In so far as the applicability of Section 61 of the Estate Duty Act is concerned, Section 61 can be invoked to rectify any mistake apparent from

the records and the finding of the Appellate Tribunal is that there were no mistakes apparent from the records and there was also no notice issued

u/s 61 of the Estate Duty Act, for initiation of rectification proceedings. We are, therefore, of the opinion that the provisions of Section 61 of the

Estate Duty Act are not also applicable and it is also relevant to mention here that there was no notice issued u/s 59 of the Estate Duty Act to

make reassessment. There was no notice either u/s 59 or u/s 61 of the Estate Duty Act and the proceedings commenced after the expiry of three

years from the date of original assessment are clearly barred in view of the provisions of Section 73A(b) of the Estate Duty Act. We do not find

any infirmity in the order of the Appellate Tribunal. Therefore, we answer the question of law in the affirmative and against the Revenue. However,

in the circumstances of the case, there will be no order as to costs.