(1977) 01 MAD CK 0017

In the Madras High Court

Case No : T.C.P. No. 403 of 1975

Controller of Estate Duty — APPELLANT

Vs

R. Saraswathi Ammal — RESPONDENT

Date of Decision : 03-01-1977

Acts Referred:

Estate Duty Act, 1953 — Section 58(4), 62

Citation : (1977) 110 ITR 525

Hon'ble Judges : Sethuraman, J;Ismail, J

Bench : Division Bench

Advocate : J. Jayaraman, for the Appellant; S.V. Subramaniam, for Subbaraya Iyer, Padmanabhan and Ramamani, for the Respondent

Judgement

Ismail, J.—The Controller of Estate Duty, Madras, in this petition u/s 64(3) for the Estate Duty Act, 1953, requests this court to direct the Income Tax Appellate Tribunal, Madras Bench, to refer the following questions for the opinion of this court:

" (1) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in upholding the validity of the Appellate Controller''s order granting reduction in precise terms in the best judgment assessment made u/s 58 of the Estate Duty Act?

(2) Whether, on the facts and in the circumstances of the case, arid having regard to the manner of quantification of relief by the Appellate Controller, the character of best judgment assessment acquiesced in, is maintained by the Appellate Tribunal ? "

2. On the death of one T.K. Rathnapandia Nadar, his wife, Saraswathi Ammal, filed the estate duty account. The Assistant Controller called for certain information and particulars and since they were not furnished, he proceeded to complete the assessment u/s 58(4) of the Estate Duty Act. The accountable person appealed to the Appellate Controller. Before the Appellate Controller the

accountable person produced some materials from time to time and after having taken into account those materials, the Appellate Controller allowed some deductions and arrived at the value of the dutiable estate. The Assistant Controller of Estate Duty preferred an appeal to the Income Tax Appellate Tribunal contending that the Appellate Controller had no jurisdiction to entertain the additional materials while considering the appeal against an order made u/s 58(4) of the Estate Duty Act, 1953, and the correctness of the estimate made by the Assistant Controller has to be tested with reference to the materials available on record at the time when he passed the order and that the Appellate Controller has no jurisdiction in an appeal against such an order to entertain fresh materials produced by the accountable person. The Tribunal rejected the above Contention.

3. We are clearly of the opinion that the Tribunal was right. The jurisdiction of an appellate authority is co-extensive with that of the original authority. Simply because the assessment was made u/s 58(4) of the Estate Duty Act, it cannot be contended that the appellate authority has no jurisdiction at all to entertain materials produced by the accountable person. It is one thing to say that the appellate authority had no jurisdiction to entertain the materials at all; it is another thing to say that the appellate authority should not have acted upon such materials. In this case, the contention advanced is that the appellate authority has no jurisdiction to entertain any such additional material at all. It is Section 62 of the Act which deals with appeals against orders of the Assistant Controller and in that section there is absolutely nothing to detract from the general principles of law referred to above, namely, the powers of an appellate authority are co-extensive with that of the original authority. Under these circumstances we are clearly of the opinion that the Appellate Controller in the present case was entitled to receive the additional materials produced by the accountable person and the fact that the assessment was made by the Assistant Controller u/s 58(4) of the Act does not in any way militate against such a power on the part of the Appellate Controller. This position being obvious, there is no need to direct the Tribunal to make a reference to this court. Accordingly, this petition is dismissed with costs. Counsel''s fee Rs. 250.