

(1993) 12 RAJ CK 0006

In the Rajasthan High Court

Case No : Estate Duty Reference No. 117 of 1982

Controller of Estate Duty

APPELLANT

Vs

Smt. Dropadi J. Nagpal

RESPONDENT

Date of Decision : 16-12-1993

Acts Referred:

Estate Duty Act, 1953 — Section 36

Citation : (1995) 211 ITR 240

Hon'ble Judges : V.K. Singhal, J;N.C. Kochhar, J

Bench : Division Bench

Advocate : G.S. Bapna, for the Appellant;

Judgement

V.K. Singhal, J.—The Income Tax Appellate Tribunal has referred the following question of law arising out of its order dated May 29, 1981, u/s 64(1) of the Estate Duty Act, 1953 (hereinafter called as "the Act") :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in confirming the Appellate Controller of Estate Duty's order, reducing the value of immovable property known as Nagpal Hotel from Rs. 5,61,000 to Rs. 3,28,380 in which the deceased had one-third share ?"

2. The brief facts of the case are that the Assistant Controller of Estate Duty, Jaipur, adopted the value of immovable property known as "Nagpal Hotel" at Rs. 5,61,000 on the basis of the report of the Departmental Valuation Officer and the deceased's (Lal). Nagpal's) one-third share was worked out at Rs. 1,52,490. The said property was valued by the Wealth-tax Officer at a figure of Rs. 3,73,169. The Assistant Controller of Estate Duty found that the immovable property under consideration was divided into two parts, the first part relating to the ground floor given to the State Bank of Bikaner and Jaipur and this portion has been valued on the rental method keeping in view the fair rent at Rs. 2,200 per month. The rent for the period from July 2, 1971, to June 26, 1974, was paid at Rs. 1,400 per month and the premises were vacated by the court's order and

subsequently it was given to Indian Overseas Bank Ltd. at Rs. 3,200 per month and as such a fair rent was considered at Rs. 2,200 on June 7, 1973. In respect of the first and second floor, the said premises were used by the deceased for hotel purposes and were valued by the Valuation Officer ignoring the wealth-tax assessment. The Assistant Controller of Estate Duty adopted the valuation report of the Valuation Officer at Rs. 5,61,000. In appeal before the Appellate Controller of Estate Duty, it was submitted that according to the valuer's report submitted by the accountable person the valuation of the entire hotel property has been shown at Rs. 2,31,500. It was also pointed out that in the wealth-tax assessment for the period ending on June 30, 1973, the Wealth-tax Officer for the assessment year 1974-75 had estimated the value of the property at Rs. 3,73,169. It was reduced in appeal to Rs. 3,28,380. The Appellate Controller accepted the plea of the accountable person that for the purpose of Estate Duty the value as determined under the wealth-tax assessment has to be adopted.

3. The Revenue challenged this matter before the Income Tax Appellate Tribunal where the said order was confirmed.

4. The contention of learned counsel for the Revenue is that the Income Tax Appellate Tribunal was not justified in estimating the value as determined under the Wealth-tax Act, 1957.

5. We have considered the matter. The Act provides the mode for estimating the principal value of the property and according to Section 36 the same shall be estimated to be the price which in the opinion of the Controller it would fetch if sold in the open market at the time of the deceased's death. For the purposes of the valuation, Rule 14 of the Estate Duty Rules provides that the Controller may accept the valuation as shown in the account delivered by the accountable person or may if he is not satisfied with the valuation shown therein, either himself place a valuation thereon on his own estimate or appoint a person to appraise such properties and to set the valuation thereon. Thus, if the Assistant Controller is not satisfied with the valuation shown by the assessee he can himself arrive at a figure and may even take assistance of other persons.

6. The valuation done by a person who may be appointed for that purpose would be a relevant consideration but ultimately it is the Assistant Controller of Estate Duty who has to satisfy himself as to which of the figures has to be accepted for the purpose of valuation. The property could be inspected under Rule 14. It is the opinion of the Controller which has ultimately to prevail for the purpose of determining the market value. In the present matter, the dispute is as to whether the valuation as adopted for the wealth-tax purposes has to be followed or the valuation done by the Departmental valuer. Even under the Wealth-tax Act, the matter could be referred to the Departmental Valuer for determining the market value of the property. The principles for determination of market value under both the Acts are the same. The valuation by different recognised modes may differ. Even a dispute may arise as to whether the valuation on the basis of rental method/yield basis/land and building method/contractors method/

municipal valuation or the like should be adopted. If the property is let on rent then in view of the judgments of the apex court and this court, the valuation has to be on the basis of rent itself. There may be different figures of valuation when different principles are applied. In the present case, the valuation of the property was increased by the Wealth-tax Officer for the assessment year 1974-75 to Rs. 3,73,169 which was reduced in first appeal to Rs. 3,28,380. The valuation which has been adopted for wealth-tax purposes can also be one of the methods of adopting valuation for the estate duty purposes. Irrespective of the valuation report or without going into the merits of the case what was the reason for difference between the valuation by the approved valuer and the Departmental valuer, once there is a decision of the Appellate Assistant Commissioner of Wealth-tax that could have formed the proper basis for the Controller to adopt the value of the property. In these circumstances, we are of the view that the Income Tax Appellate Tribunal was justified in confirming the order of the Appellate Controller of Estate Duty who reduced the value of the immovable property known as "Nagpal Hotel" from Rs. 5,61,000 to Rs. 3,28,380 in which the deceased had one-third share.

7. Consequently, the reference is answered in favour of the accountable person and against the Revenue.