

(1989) 02 CAL CK 0022
In the Calcutta High Court
Case No : Matter No. 250 of 1977

Controller of Estate Duty

APPELLANT

Vs

Sri Patrick Gillam Sandy's Lumsdaine

RESPONDENT

Date of Decision : 09-02-1989

Acts Referred:

Estate Duty Act, 1953 — Section 62(1)

Citation : (1990) 87 CTR 17 : (1989) 87 CTR 17 : (1990) 186 ITR 411 : (1989) 44 TAXMAN 415

Hon'ble Judges : Suhas Chandra Sen, J; Baboo Lall Jain, J

Bench : Division Bench

Advocate : A.C. Moitra and S.K. Mukherjee, for the Appellant;

Judgement

Suhas Chandra Sen, J.—The following question of law has been referred by the Tribunal to this court u/s 64(1) of the Estate Duty Act, 1953 ("the Act") :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that an appeal lay to the Appellate Controller against the order made by the Assistant Controller u/s 61 of the Estate Duty Act, 1953 ?"

2. The dispute in this case was with regard to the valuation of shares of Williamson Magon and Co. Ltd. In the original estate duty assessment, the Assistant Controller had made the valuation at Rs. 101.61 per share. This order was rectified by an order u/s 61 of the Act dated December 28, 1972. Under the rectification order, the shares were valued at Rs. 162,27 per share.

3. Another point argued before the Tribunal was that any appeal against this order should not have been entertained by the appellate authority because the order was not appealable. It was contended that no appeal lies against the order made u/s 61 and that the order of the Appellate Controller should not have been cancelled. The Tribunal considered Section 62(1)(a) of the Act, which is as under :

"62. Appeal against orders of Controller.--(1) Any person-

(a) objecting-

(b) (i) to any valuation made by the Controller, or

(c) may, within thirty days of the date of the receipt of the notice of demand u/s 73, appeal to the Appellate Controller in the prescribed form which shall be verified in the prescribed manner."

4. The Tribunal came to the conclusion, considering the provisions of Section 62(1)(a), that if any objection was raised to the valuation made by the Controller, then an appeal was entertain able. In this case, the dispute is with regard to the valuation of the shares of Williamson Magon and Co, Ltd, and, hence, an appeal has been preferred with respect to the valuation made by the Assistant Controller u/s 62(1)(a)(i). The Tribunal came to the conclusion that the appeal preferred by the accountable person to the Controller could not be dismissed in limine and that the Appellate Controller was competent and was perfectly justified in entertaining the appeal.

5. Having regard to the provisions of Section 62, we are of the view that the Tribunal has correctly dealt with the issues raised before it.

6. In that view of the matter, the question is answered in the affirmative and in favour of the accountable person.

7. There will be no order as to costs.

Baboo Lall Jain, J.

8. I agree.