(2007) 10 P&H CK 0033

In the Punjab And Haryana At Chandigarh

CWT APPELLANT

Vs

Amar Singh RESPONDENT

Date of Decision : 03-10-2007

Acts Referred:
Income Tax Act, 1961 — Section 256(1)

Citation : (2007) 10 P&H CK 0033

Hon'ble Judges : M.M. Kumar, J;Ajay Kumar Mittal, J

Bench : Division Bench

Judgement

M.M. Kumar, J.—At the instance of the revenue, the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for brevity ''the Tribunal'') while exercising jurisdiction u/s 256(1) of the Income Tax Act, 1961 (for brevity ''the Act) has referred the following question of law for the opinion of this Court which is stated to have emerged out of the order dated 13-11-1997 in WTA No. 144/Asr/1992 in respect of assessment year 1989-90:

Whether, on the facts and in the circumstances of the case, the learned Tribunal is right in law in upholding the order of the learned Commissioner (Appeals) who set aside the order of the assessing officer directing him to compute the value of the impugned 4,325 unquoted equity shares of M/s Guru Nanak Auto Enterprises (P) Ltd., Goraya on yield basis?

2. The undisputed facts are that the assessee, filed return of wealth-tax of Rs. 8,73,000. During the assessment proceedings it was noted that the assessee had declared valuation of shares of M/s Guru Nanak Auto Enterprises (P) Ltd., Goraya numbering 4,325 @ Rs. 118.32 per share against the value of Rs. 255.88 declared in the case of other shareholders. It was found to be correct. Accordingly, the assessing officer valued the shares @ Rs. 255.88 and made the addition in the valuation of M/s G.N.A. Enterprises (P) Ltd., to the extent of Rs. 5,94,947. The assessee came in appeal and the Commissioner (Appeals) after hearing the assessee restored the matter to the file of the assessing officer with direction to recompute the market value of the shares on the ''yield basis''.

Against the above order, the revenue approached the Tribunal.

3. The Tribunal appears to have referred the question of law for the opinion simply on the ground that other reference applications like RA Nos. 108 to 113 and 165 to 167/Asr/1990, 114 to 117 and 168 to 172/Asr/1990 and 118 to 124 and 173 and 174/Asr/1990 had already been referred vide order dated 25-11-1991.

4. No one has put in appearance on behalf of the assessee. We have heard learned Counsel for the revenue and proceed to answer the question.

5. After hearing the learned Counsel we are of the view that the matter is no longer res integra. It appears that similar question was raised before Hon''ble the Supreme Court in the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, . Upholding rule ID of the Wealth Tax Rules, 1957, the Supreme Court opined that it is not in conflict with Section 7 of the Wealth Tax Act, 1957. Their Lordships have answered the question in favour of the revenue by observing as under:

...In the circumstances, it is difficult to agree with the learned Counsel for the assessee either that the break up method is not a recognised method or that the yield method is the only permissible method for valuing the unquoted equity shares. It is not as if the rule making authority has adopted a method unknown in the relevant circles or has devised an impermissible method. There is no empirical data produced before us to show that break up method does not lead to the determination of market value of the shares. Merely because the yield method may be more advantageous from the assessee''s point of view, it does not follow that it alone leads to the ascertainment of the true market value and that all other methods are erroneous or misleading. This aspect we have emphasised hereinbefore too.

6. It is thus clear that the question has been answered in favour of the revenue and against the assessee. Accordingly, we answer the question in favour of the revenue and against the assessee.