

(2002) 07 GUJ CK 0134

In the Gujarat High Court

Case No : Wealth Tax Reference No. 2 of 1994 July 18, 2002

CWT

APPELLANT

Vs

Chandrakala Kasturbhai

RESPONDENT

Date of Decision : 18-07-2002

Acts Referred:

Wealth Tax Rules, 1957 — Rule 1D

Citation : (2002) 125 TAXMAN 170

Hon'ble Judges : M.S. Shah, J;K.A. Puj, J

Bench : Full Bench

Advocate : Manish R. Bhatt, Mrs. Mona Bhatt, for the Revenue and S.N. Soparkar, for the Assessee, for the Appellant;

Judgement

M.S. Shah, J.

At the instance of the revenue, the following question of law is referred to this court for its opinion for the assessment year 1983-84 :

"Whether the Appellate Tribunal is right in law and on facts in directing the Wealth Tax Officer to value the shares of Kasturbhai Mayabhai (P) Ltd. held by the assessee on the basis of yield method ?"

2. We have heard Mrs. Mona Bhatt, the learned standing counsel appearing for the revenue. Nobody appears on behalf of the respondent-assessee though notice was duly served.

3. The assessee is an individual. The assessment year involved is 1983-84 for which the relevant valuation date was 31-3-1983. Before the Tribunal, the following ground had been raised in the appeal filed by the department against the order of the Commissioner (Appeals) :

"The learned Commissioner (Appeals) had erred in law and on facts in directing the Wealth Tax Officer to value the shares of Kasturbhai Mayabhai (P) Ltd. held by the assessee on the basis of yield method."

The Tribunal noted that the Commissioner (Appeals) in his order had mentioned that the point in controversy is covered by the decision of the Tribunal dated 4-9-1987 in WT Appeal No. 887 (Ahd.) of 1983 for the assessment year 1975-76 in the assessee's own case in which the Tribunal had directed the Wealth Tax Officer, after accepting the contentions of the assessee, to value the shares of the said company on the basis of yield method. The Tribunal also noted that the Commissioner (Appeals) had further observed that the basic facts in relation to the valuation of shares were identical and that the Commissioner (Appeals) had followed the above mentioned decision of the Tribunal and directed the Wealth Tax Officer to act in accordance with the directions of the Tribunal and value the shares on the basis of yield method. The Tribunal found that point in controversy was covered by the earlier decision of the Tribunal and the department wanted to keep the issue alive. The Tribunal followed the said decision and rejected the ground raised by the department.

4. At the hearing of the reference today, Mrs. Bhatt, the learned standing counsel for the revenue, has invited our attention to the decision of the Supreme Court in the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, and has submitted that in view of the aforesaid decision, the Tribunal had not correctly held that the value of shares of Kasturbhai Mayabhai (P) Ltd. held by the assessee should be made on the basis of the yield method. Since the rule 1D of the Wealth Tax Rules, 1957 prescribes the break-up method, the said rule was correctly applied by the assessing officer. Following the various decisions of the Supreme Court, the Apex Court has laid down the following principle in this behalf :

"... There may be several methods of valuing an asset or for that matter an unquoted equity share. The rule-making authority cannot prescribe all of them together, it has to choose one of them which according to it is more appropriate. The rule-making authority has in rule 1D chosen the break-up method, which is undoubtedly one of the recognized methods of valuing unquoted equity shares. Even if it is assumed that there was another method available which was more appropriate, still the method chosen cannot be faulted so long as the method chosen is one of the recognized methods, though less popular. The break-up method based upon the balance sheet of the company, incorporated in rule 1D, is a fairly simple one. No serious objection can be taken to this course since the basis of the rule is the balance sheet of the company prepared by the company itself subject, of course, to certain modifications provided in Explanation II.

Rule 1D has to be followed in valuing each and every case of unquoted equity shares of a company (other than an investment company or a managing agency company). It is not a matter of choice or option. The rule-making authority has prescribed only one method for valuing the unquoted equity shares. If this method were not to be followed, there is no other method prescribed by the rules. Where there is a rule prescribing the method in which a particular property has to be valued, the authorities under the Act have to follow it. They cannot

devise their own ways and means for valuing the assets." (page 3)

5. In view of the clear pronouncement of law, we are of the view that the Wealth Tax Officer had correctly applied the break-up method prescribed under rule 1D as interpreted by the Supreme Court in the case of Bharat Hari Singhania (*supra*). Following the aforesaid decision of the Supreme Court, our answer to the question referred to us is in the negative, i.e., in favour of the revenue and against the assessee.

6. The reference is, accordingly, disposed of.