(2001) 12 MAD CK 0079

In the Madras High Court

Case No : TC No''s. 85 to 87 of 1998 10 December 2001 A.Y. 1985-86 to 1987-88

CWT — APPELLANT

Vs

P.D. Jai Shankar — RESPONDENT

Date of Decision : 10-12-2001

Acts Referred:

Citation : (2002) 178 CTR 408

Hon'ble Judges : R. Jayasimha Babu, J;A.K. Rajan, J

Bench : Full Bench

Advocate : Mrs. Chitra Venkataraman, for the Revenue None, for the Assessee, for the Appellant;

Judgement

R. Jayasimha Babu, J.

The questions referred to us at the instance of the revenue for the assessment years 1985-86 to 1987-88 are :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in cancelling the order u/s 25(2) passed by CWT on the ground that there was non-inclusion of compensation and interest amount by the assessee in net wealth ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in not concluding that the element of enhanced compensation receivable along with accrued interest are asset so as to be includible in the net wealth of the assessee following the Supreme Court''s ruling in the case of Rama Bai and Others Vs. Commissioner of Income Tax, Andhra Pradesh Hyderabad and Others, ?

2. The enhanced compensation along with interest accrued therein payable by the State for the acquisition of the petitioner''s land, the enhancement having been effected in an award, on a reference made under the Land Acquisition Act,

was sought to be included in the wealth of the assessee. The assessee''s contention that it could not be so in view of the fact that the appeal had been preferred by the State against the order of the court granting the enhancement, and until the final decision was rendered in the appeal, the amount could not be regarded as forming part of wealth was rejected by the assessing officer and the appellate authority, but accepted by the Tribunal.

3. The correctness of that view of the Tribunal has been called into question. The revenue has relied upon the decision of the Supreme Court in the case of Rama Bai and Others Vs. Commissioner of Income Tax, Andhra Pradesh Hyderabad and Others, . The question that was decided in that case was only as to whether interest cannot be taken to have accrued on the date of the order of the court granting enhanced compensation but has to be taken as having accrued year after year from the date of delivery of possession of land till the date of such order. The court also held that interest must be regarded as having accrued year after year. That decision does not support the proposition that even when finality had not been reached with reference to the amount of compensation, the extent to which compensation had been enhanced, having been questioned before the appellate forum and such appeals being continued to pend during the relevant previous year, the enhanced sum should be required as part of the taxable wealth.

4. This court in the case of Commissioner of Wealth-tax Vs. A.R. Krishnamurthy, relying upon the decision of the apex court in the case of Commissioner of Income Tax, West Bengal-II, Calcutta Vs. Hindustan Housing and Land Development Trust Ltd., has held that it is only after the superior court upholds the enhancement and that verdict becomes final, it can be said that the amount belongs to the assessee and forms part of the wealth.

5. The situation here is similar. Questions referred are answered in favour of the assessee and against the revenue.

OPEN

