(2003) 01 RAJ CK 0002

In the Rajasthan High Court

Case No : WT Ref. No. 82 of 1995 27 January 2003

CWT APPELLANT

Vs

R.K. Golecha RESPONDENT

Date of Decision : 27-01-2003

Acts Referred:
Wealth Tax Act, 1957 — Section 16A, 7

Citation : (2003) 131 TAXMAN 262

Hon'ble Judges : Y.R. Meena, J;K.C. Sharma, J

Bench : Full Bench

Advocate : Anuroop Singhi, for the Revenue and J.K. Ranka, for the Assessee, for the Appellant;

Judgement

By this application u/s 7 of the Wealth Tax Act, 1957, Tribunal has referred the following question for our opinion :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in upholding the order of the Commissioner (Appeals) directing the assessing officer to take the value of Prem Prakash Cinema Building as per finding of first appellate authority for assessment year 1979-80 by making enhancement by 10 per cent in each assessment year over the value adopted for the earlier years ?"

2. The assessee is Hindu undivided family and also a partner in the partnership firm M/s. S. Zoraster & Co. which inter alia owns an immovable property known as Prem Prakash Cinema Building. The Hindu undivided family had declared its value in the immovable property at minus figure, whereupon the Wealth Tax Officer made reference u/s 16A of the Wealth Tax Act to the valuation cell of the department.

3. The District Valuation Officer valued the said property at positive figures. The assessee thereafter carried the matter before the Commissioner (Appeals). The Commissioner (Appeals) has added 10 per cent in the value taken in the

preceding year of this building. The Tribunal also has upheld the view taken by the Commissioner (Appeals) enhancing the value by 10 per cent of the value taken just in the preceding year.

4. Mr. Ranka, learned counsel for the assessee brought to our notice that similar issue has been considered by the Apex Court in case of The Special Land Acquisition Officer, BTDA, Bagalkot Vs. Mohd. Hanif Sahib Bawa Sahib, wherein their Lordships have considered that if the authority has estimated the value by enhancing 10 per cent in the value in each year, it is just and reasonable and that cannot be said excessive nor reasonable. The relevant observations of their Lordships in para 13 reads as under :

"After due deliberations on the contentions raised by the counsel for the parties, we are of the opinion that on the given facts and circumstances of the present case the appreciation of 10 per cent per annum given for the subsequent years is neither excessive nor reasonable so as to call for our interference."

5. Considering the view taken by the Tribunal and which has been supported by their Lordships'' view, we find no infirmity in the order of Tribunal.

6. In the result we answer the question in affirmative, i.e., in favour of the assessee and against the revenue.

7. The reference so made stands disposed of accordingly.