
(2001) 08 CAL CK 0054

In the Calcutta High Court

Case No : Matter No. 3806 of 1994 6 August 2001 A.Y. 1984-85

CWT

APPELLANT

Vs

SAMIR JAIN

RESPONDENT

Date of Decision : 06-08-2001

Acts Referred:

Wealth Tax Act, 1957 — Section 27(1)
Wealth Tax Rules, 1957 — Rule 1D

Citation : (2002) 175 CTR 135 : (2003) 126 TAXMAN 253

Hon'ble Judges : Y.R. Meena, J;Arun Kumar Mitra, J

Bench : Full Bench

Advocate : S.M. Dutta with U Zamuddin, for the Revenue None, for the Assessee, for the Appellant;

Judgement

By the court

On an application u/s 27(1) of the Wealth Tax Act, 1957, the Tribunal has referred the following questions set out at pp. 2 and 3 of the paper book for the opinion of this court :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the rule 1D of the Wealth Tax Rules, 1957, is directory and not mandatory ?"

"2. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the value of unquoted shares of Bonnet Coleman & Co. Ltd. be determined on yield basis and not on the break-up value method in accordance with the provision of rule 1D of the Wealth Tax Rules, 1957"

2. The assessee is an individual. Assessment year is 1984-85. The valuation date is 31-3-1984. The net wealth of the assessee on the above valuation date included unquoted shares of Bennet Coleman & Co. The Wealth Tax Officer has assessed the shares of this company by break-up method under rule 1D.

In appeal before the CWT(A) and also before the Tribunal, both has directed that value of the shares should be assessed on yield method.

3. None appeared for the assessee. Heard learned counsel for the revenue.

4. Learned counsel for the revenue submits that now the issue is concluded by the decision of the Apex Court in case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, . The Apex Court has considered the issue whether the unquoted shares should be valued as per rule 1D and whether the rule 1D is mandatory after consideration. Their Lordships have summarised and concluded at page 34 (of 207 ITR) of the judgment which reads as under :

"(1) rule 1D is perfectly valid and effective. The rule has to be followed in every case where unquoted equity shares of a company (other than an investment company or a managing agency company) have to be valued. All the authorities under the Act including the Valuation Officer are bound by the said rule. The question of the rule being mandatory or directory does not arise.

(2) While valuing the unquoted equity shares under rule 1D, no deductions on account of capital gains tax which would have been payable in case the said shares were sold on the valuation date can be made. Similarly, no other deductions including provision of taxation, provident fund and gratuity are admissible. Rule 1D is exhaustive on the subject.

(3) Explanation 1 to rule 1D is a perfectly valid piece of delegated legislation and has to be followed. Merely because valuation date of the assessee and the date with reference to which the balance sheet of the company is drawn up do not coincide, it cannot be said that rule 1D is not mandatory or that it need not be followed.

(4) Sub-clause (a) of clause (i) and sub-clause (3) of clause (ii) have to be read and understood in the manner indicated in this judgment hereinabove.

(5) An assessee holding shares in a company whose assets comprise wholly and partly of agricultural land, is not entitled to exclude such shares from his wealth."

Following the view taken by the Apex Court, the Tribunal has committed error in holding that rule 1D of the Wealth Tax Act is directory.

In the result, we answer both the questions in negative, i.e., in favour of the revenue and against the assessee.

Reference so made stands disposed of accordingly.

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