
(2002) 02 MP CK 0064

In the Madhya Pradesh High Court

Case No : WT Ref. No. 53 of 1985 19 February 2002

CWT

APPELLANT

Vs

SARDAR HARNAM SINGH

RESPONDENT

Date of Decision : 19-02-2002

Acts Referred:

Wealth Tax Act, 1957 — Section 14(2), 27(1)

Citation : (2002) 174 CTR 572

Hon'ble Judges : Y.R. Meena, J;A.C. Goyal, J

Bench : Full Bench

Advocate : R.B. Mathur, for the Revenue and N.M. Ranka, for the Assessee, for the Appellant;

Judgement

By The Court

On an application u/s 27(1) of the Wealth Tax Act, the Tribunal has referred the following question for our opinion.

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in deleting the penalty of Rs. 19,837 (for assessment year 1973-74) Rs. 11,570 (for assessment year 1974-75) levied u/s 18(1)(a) ?

2. The relevant assessment years are 1973-74 and 1974-75. The case of the assessee is that he had bona fide belief that he did not have deductible (sic) wealth, therefore, he could not file the return on the higher value of the assets and also disallowing some liabilities. He had belief that those liabilities are deductible for the purpose of wealth-tax, therefore, he would not file this return in time. Tribunal has discussed this in its order. The relevant facts to the issue which have been reproduced in the statement of the case reads as under :

"The assessee has repeated the same arguments before us as were made before the authorities below. It has been further contended that for the assessment year 1973-74 the net wealth of the assessee was at Rs. 98,300 only but the net wealth was assessed at Rs. 1,59,192 by enhancing the value of assets and

disallowing liabilities. It has, therefore, been contended that since the returned wealth was below the taxable limit and the enhancement was on account of difference of opinion, there was no case for imposing penalty for the assessment year 1973-74. It is also contended that the assessee had returned the value of the plot at Rs. 16,000 and of two buses at Rs. 1 lakh, while the authorities below assessed their value at Rs. 25,000 and Rs. 1,25,000 respectively. It was, therefore, contended that it was a case of an honest difference of opinion about the valuation. Similarly, he contended that the assessee had claimed tax liabilities of Rs. 47,700 for the assessment year 1973-74 but the authorities below allowed only Rs. 19,200 thereby disallowing the liability of Rs. 28,500 holding that tax liabilities were not deductible u/s 2(m)(ii) of the Wealth Tax Act, 1957, being outstanding for a period of more than 12 months. It is contended that even for this liability the assessee could entertain a reasonable belief that this was the liability of the assessee and, therefore, the same was to be deducted while computing the net wealth but the same was disallowed by the assessing authorities and therefore, there was honest difference of opinion on the admissibility of this liability also. It has, therefore, been contended that no penalty was exigible. Similar arguments have been advanced for the assessment year 1974-75. The returned wealth for this year is at Rs. 1,11,979. Shri Ranka, the learned counsel for the assessee contended that return for the assessment years 1973-74 and 1974-75 were filed simultaneously after the assessee became aware that his net wealth was around margin of assessment. He further submitted that the difference of Rs. 11,799 was marginal and, therefore, the assessee could entertain a reasonable belief that his income was below taxable limit. Finally he argued that the assessee was a regular Income Tax payer and all the facts relating to ownership of the buses etc. were within the knowledge of the Income Tax Officer and, therefore, it could not be said that the Wealth Tax Officer was not aware of this position, but still he did not issue any notice either u/s 14(2) of the Wealth Tax Act of section 17 and the assessee had filed the returned voluntarily. It was, therefore, contended that it could not be said that the assessee had not filed the return intentionally when he was already on the GIR as an Income Tax payer. For this proposition he relied upon the decision of Orissa High Court, reported as Taxman 204 (sic). The learned Departmental Representative, on the other hand, has supported the orders of the authorities below and has contended that when the assessee entertained a belief that tax liability was to be given as a deduction, he was fully aware of the legal provisions and still he did not file the return and deducted the liability when it was not deductible in view of the provisions of section 2(m)(ii). He, therefore, submitted that the Appellate Assistant Commissioner has rightly sustained the penalties imposed by the Wealth Tax Officer. "

Considering the facts found by the Tribunal and bona fide belief of the assessee, we find no infirmity in the order of the Tribunal.

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

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