
(2009) 02 RAJ CK 0157
In the Rajasthan High Court

CWT

APPELLANT

Vs

Smt. Rani Roopraj Laxmi

RESPONDENT

Date of Decision : 19-02-2009

Acts Referred:

Wealth Tax Act, 1957 — Section 7(4)

Citation : (2010) 322 ITR 188

Hon'ble Judges : R.C. Gandhi, Acting C.J.; Munishwar Nath Bhandari, J

Bench : Division Bench

Judgement

M.N. Bhandari, J.—The Tribunal, Jaipur Bench, Jaipur has referred the following question in R. A. Nos. 227 to 235/Jp/1987 arising out of WTA Nos. 20 to 28/Jp/1987 for the assessment years 1972-73 to 1981-82:

1. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the provisions of Section 7(4) of the Wealth Tax Act, 1957 were applicable and, therefore, the value of the property "Samod House" as taken in the assessment year 1971-72 i.e., Rs. 2.5 lacs should be taken in the year under consideration?

2. Brief facts relevant to the case are that property known as "Samod House" was used by the assessee as residential house and accordingly Wealth Tax Officer valued the said property at the different values for the assessment years 1972-73 to 1981-82. The said property was earlier assessed at the value of Rs. 2,50,000 for the assessment year 1971-72 by the Commissioner (Appeals). The assessee claimed that as per the provisions of Section 7(4) of the Wealth Tax Act, 1957 (for short "the Act"), value of the property was required to be freezed at Rs. 2,50,000 and the same value should have been taken for the subsequent assessment years. It is stated that 1st April, 1971 is a crucial date as per the provisions of Section 7(4) of the Act as assessee was owner of the property even prior to 1971. The order passed by the Wealth Tax Officer was challenged by the assessee and Appellate Assistant Commissioner held that the value of the property as taken in the year 1971-72 i.e., Rs. 2,50,000 should be taken as

value of the property for subsequent assessment years also. The order of the Appellate Assistant Commissioner was challenged before the Tribunal by the revenue, but the Tribunal confirmed the order of Appellate Assistant Commissioner. Thus, the revenue sought reference to the question referred to above.

3. We have heard learned Counsel for the revenue and perused the record.

4. The prime question involved for our consideration is that the interpretation of Section 7(4) of the Act. For consideration of the aforesaid provision, it is quoted hereunder:

7(4) Notwithstanding anything contained in Sub-section (1), the value of a house belonging to the assessee and exclusively used ,by him for residential purposes throughout the period of twelve months immediately preceding the valuation date may, at the option of the assessee, be taken to be the price which, in the opinion of the Wealth Tax Officer, it would fetch if sold in the open market on the valuation date next following date on which he became the owner of the house, or on the valuation date relevant to the assessment year commencing on the 1-4-1971, whichever valuation date is later:

Provided that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of this Sub-section shall apply only in respect of one of such houses which the assessee may, at his opinion, specify in this ..behalf in the return of net wealth.

Explanation : For the purpose of this Sub-section--

(i) where the house has been constructed by the assessee, he shall be deemed to have become the owner thereof on the date on which the construction of such house was completed;

(ii) "house" includes a part of a house, being an independent residential unit.

5. The perusal of the aforesaid provisions shows that the value of the house belonging to the assessee, at his option, be taken to be price which it will fetch on the valuation date relevant to the assessment year commencing on 1st day of April, 1971 and in other cases if ownership of the property comes later on, then the relevant date would be the valuation date following the date on which the assessee becomes owner of the house. In the present matter, the assessee was owner of the property much prior to assessment year 1971-72. Thus, valuation of the property for the assessment year 1971-72 becomes quite relevant. It has come on record that for the assessment year 1971-72, the valuation of the property was made at Rs. 2,50,000 by the Commissioner (Appeals) and the said order has attained the finality because it was neither challenged by the assessee nor by the revenue. Once the aforesaid value of the house became final, then same value is required to be freezed for subsequent assessment years. Thus, in view of the provisions of Section 7(4) of the Act, the value of the property as taken Rs. 2,50,000 for the assessment year 1971-72 would be applicable to the

subsequent assessment years as the assessment years involved in the present matter are 1972-73 to 1981-82. The reference is accordingly answered against the revenue and in favour of the assessee.