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**(2001) 08 CAL CK 0056**

**In the Calcutta High Court**

**Case No :** Matter No. 1026 of 1993 2 August 2001 A.Y. 1988-89

CWT

APPELLANT

Vs

UMANG KONORIA

RESPONDENT

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**Date of Decision :** 02-08-2001

**Acts Referred:**

Wealth Tax Act, 1957 — Section 27(3)

**Citation :** (2002) 172 CTR 740 : (2002) 124 TAXMAN 804

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

**Bench :** Full Bench

**Advocate :** Soumitra Paland B.D. Halder, for the Revenue None, for the Assessee, for the Appellant;

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## **Judgement**

By the court

On an application u/s 27(3) of the Wealth Tax Act, 1957, this court has directed to refer the following question set out at para 7 at per page 3 and 4 of the paper book for the opinion of this court :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the unquoted shares of M/s. Ruby Developers and Construction Company (P) Ltd. M/s. Imeco Business (P) Ltd. M/s. Recold Business (P) Ltd. & M/s. Powertone Trading Co. (P) Ltd. should be valued on yield method without application of break-up value method as per rule 1D of the Wealth Tax Rules, 1957?"

In compliance of the direction of this court, the aforesaid question has been referred for the opinion of this court.

2. The assessee is a resident-individual and assessment year involved in 1988-89 for which the devaluation date is 31-3-1988.

In the course of assessment proceedings, the assessing officer found that the assessee held on the relevant valuation date the shares of the following

companies as under :

1. M/s. Ruby Developers & Construction Co. (P) Ltd.
2. M/s. Imeco Business (P) Ltd.
3. M/s. Recold Business (P) Ltd., and
4. M/s. Powertone Trading Co. Ltd.

He further noticed that the shares of those companies are unquoted shares and, therefore, according to the assessing officer, they should be valued as per rule 1D, though the assessee has claimed and valued the shares on yield method basis.

3. None appeared for the assessee. Heard learned counsel for the revenue. Learned counsel for the revenue submits that now the issue is concluded by the Apex Court in the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, . The facts are not in dispute that the shares of the companies are unquoted shares. Whether they should be valued on the yield method basis or as per rule 1D of the Wealth Tax Rules, their Lordships have considered this aspect in the aforesaid case and summarized its decision at page 34 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 deduction 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 for 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 the 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 (e) of clause (ii) have to be read and understood in the manner indicated in this judgment hereinabove.

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

Following the view of the Apex Court, it appears, the Tribunal has committed an error in directing that the shares should be valued as per yield method.

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

The reference so made stands disposed of.