
(1991) 03 KL CK 0044

In the High Court Of Kerala

Case No : Income-tax Reference No"s. 201 to 203 of 1982

E K MATHEW

APPELLANT

Vs

COMMISSIONER OF WEALTH-TAX.

RESPONDENT

Date of Decision : 23-03-1991

Acts Referred:

Citation : (1992) 104 CTR 5 : (1992) 195 ITR 646 : (1992) 64 TAXMAN 176

Hon'ble Judges : K.P. Radhakrishna Menon, J;K. P. Radhakrishna Menon, J

Bench : Division Bench

Judgement

K. P. RADHAKRISHNA MENON J. - The common question referred for our opinion read :

"1. Whether, on the facts and in the circumstances of the case, the tea bushes cannot be characterised as growing crops ?

2. Whether, on the facts and in the circumstances of the case, the rubber trees are not exempt from wealth-tax u/s 5(1)(viii) of the wealth-tax Act ?"

The years of assessment are 1973-74, 1974-75, 1975-76. The claim of the assessee for exemption is based on section 5(1)(viii) of the Wealth-tax Act as it stood then. That means that the assets made mention of in this clause namely, growing crops (including fruits of trees) on agricultural land and grass on such land shall not be included in the net wealth of the assessee. This claim was, however, rejected by the Wealth-tax Officer. The appeal taken therefrom before the Appellate Assistant Commissioner, however, was not successful. The Tribunal before which the assessee challenged the order was of the view that the claim was not sustainable and, consequently, confirmed the orders of the lower authorities. It is from this order of the Tribunal that the above questions arise for consideration.

The real question that arises for consideration in the case of tea bushes is whether the "two leaves and bud" plucked and treated as the raw material for

producing black tea can be treated as growing crop. That the assessing authority itself has taken such a view is clear from the decision in E.K. Joseph, E.K. Mathew and Bros. Vs. Commissioner of Wealth Tax, . We may, in this connection, refer to the finding of the assessing authority which reads :

"... Ultimately, the Income Tax Appellate Tribunal, in their order in Appeals Nos. 134 to 136/Coch. of 1975-76 dated March 29, 1977, held that no deduction in respect of standing crops is allowable in respect of tea leaves plucked should alone be allowed as deduction."

The order made mention of in the above observation has become final. That means that the value of the two leaves and bud plucked from the estate and treated as the raw material for the production of black tea has been treated as growing crop by the assessing authority and, if that be the position, the value thereof requires to be deducted from the net wealth of the assessee.

Instead of deducting the said value from the net wealth the assessing authority has treated the value of the tea bushes as a whole as forming part of the net wealth and, consequently, the claim for exemption was rejected. The order rejecting the claim, under the circumstances, is not sustainable. But, in the case of rubber plants, we cannot accept the argument of learned counsel for the assessee that the value of the latex that is produced from the plant shall be deducted from the net wealth. No such claim has been laid by the assessee before the assessing authority, nor, for that matter, either before the first appellate authority or before the Tribunal. We, therefore, are of the view that the said claim cannot be entertained in this proceeding. The finding of the assessing authority, confirmed by the first appellate authority and the Tribunal and relating to the contention that rubber plants shall not be treated as growing crop, under the circumstances, is unassailable. We, therefore, are of the view that the same cannot be interfered with.

In the light of the discussion above, the exemption claimed by the assessee and relating to the value of the "two leaves and bud", they being standing crop, shall be deducted while determining the value of the net wealth of the assessee.

In the light of the discussion above we are of the view that there is no need to answer the first question. It is all the more so because we have directed the assessing authority to recompute the net wealth. As regards the second question, the answer is in the affirmative and in favour of the Department.

A copy of this judgment under the seal of this court and the signature of the Registrar shall be forwarded to the Income Tax Appellate Tribunal, Cochin Bench.