(1978) 02 AP CK 0011

In the Andhra Pradesh High Court

Case No : C.R. No. 151 of 1976

J. D. ITALIA — APPELLANT

Vs

CONTROLLER OF ESTATE DUTY. — RESPONDENT

Date of Decision : 27-02-1978

Acts Referred:
Estate Duty Act, 1953 — Section 36, 44

Citation : (1978) 7 CTR 220(2)

Hon'ble Judges : S. Obul Reddi, C.J

Bench : Division Bench

Judgement

S. Obul Reddi, C.J. - The following three questions have been referred to this Court for its opinion :

"(1) Whether, on the facts and in the circumstances of the case, the proper and correct method of valuation of the Dinroze Estate is the rent capitalisation method ?

(2) Whether, on the facts and in the circumstances of the case, for purposes of determining, under S. 36 of the Estate Duty Act, 1953, the principal value of the estate passing on the death of the deceased, the duty payable on the estate should be taken into account and the value accordingly.

(3) Whether, on the facts and in the circumstances of the case, the estate duty payable on the principal value of the estate passing on the death of the deceased can be allowed as a deduction under S. 44 of the Estate Duty Act, 1953, either as a debit or encumbrance."

The first question has been referred at the instance of the Revenue and the other two questions at the instance of the assessee. Question Nos. 2 and 3 referred at the instance of the assessee are covered by a decision of this Court in Controller of Estate Duty vs. Estate of Late Om Prakash Bajaj. Similar questions arose in that case and they were answered against the assessee. Therefore, question Nos. 2 and 3 are answered in the negative and against the assessee.

2. As regards the first question, it is necessary to state a few facts. Dinroze Estate is Situated in Mount Road, Madras. The deceased had 1/3rd interest in that estate. It comprised of about 126 grounds on which there are buildings except on 10 grounds. The accountable person had submitted a valuation report obtained from an approved valuer. That report disclosed the value of the estate at Rs. 32,45,000/-. The accountable person wanted that the valuation of the property should be by capitalising the rent, as that property was occupied by the tenants and the provisions of the Rent Control Act applied. But the Assistant Controller was of the view that the ground and the buildings thereon should be separately valued and, on that basis, determined the aggregate value of the Dinroze Estate as on the date of the death of the deceased at Rs. 44,20,400/-. The Appellate Controller took into account the valuation made by the Assistant Controller and also the rent capitalisation method and took the average and put the total value of the estate at Rs. 40,44,950/-. On further appeal to the Tribunal, the Tribunal adopted the rent capitalisation method and determined the value at Rs. 35,40,185/-. Hence this reference under S. 64(1) of the Estate Duty Act at the instance of the Revenue.

3. Admittedly, except on 10 grounds the entire land is covered by buildings. All the buildings standing thereon have been rented out and the Rent Control Act is applicable to the buildings in the Dinroze Estate. The question is : What is the proper method to be adopted for arriving at the value of the buildings at the time of the death of the deceased ?

4. The Supreme Court, in Corporation of Calcutta vs. Smt. Padma Debi, dealing with a case arising under the Calcutta Municipal Act, said that the value of the property to the owner is the standard in making the assessment thereunder and that the rental value cannot be fixed higher than the standard rent under the Rent Control Act.

5. The Supreme Court, in State of Kerala vs. P. P. Hassan Koya while dealing with the question of payment of compensation in respect of land with buildings, said that separate valuation of land and buildings is not warranted. The learned judges have clearly stated that, in determining compensation payable in respect of land with building, compensation cannot to determined by assessing the value of the land and the "break-up value" of the buildings separately. The land and the building constitute one unit and the value of the entire unit must be determined with all its advantages and its potentialities.

6. What the Assistant Controller did in this case was to break up the value of the land and buildings separately. While the Assistant Controller aggregated the break-up value, the appellate Controller took the average of the two and determined the value of the Dinroze Estate. The Supreme Court, in P. P. Hassan Koyas case also observed :-

"When the property sold is land with building, it is often difficult to secure reliable evidence of instances of sale of similar lands with buildings proximate in time to the date of the notification under S. 4. Therefore the method which is generally resorted to in determining the value of the land with buildings especially those used for business purposed, is the method of capitalization of return actually received or which might reasonably be received from the land and the buildings.

7. The Tribunal was, therefore, right in adopting the method of capitalisation of the rent actually received in respect of this estate.

8. Question No. 1 is, therefore, answered in the affirmative and against the Revenue. There will be no order as to costs. Advocates fee Rs. 250/-.

9. Mr. Anjaneyulu has made an oral application under S. 65(1) of the Act for a certificate to appeal to the Supreme Court. We are unable to certify that question Nos. 2 and 3 answered by us, following the decision of this Court in Controller of Estate Duty vs. Estate of Late Om Prakash Bajaj are fit questions where a certificate could be granted for appeal to the Supreme Court. The oral application is, therefore, rejected.

