

(1994) 09 MAD CK 0062

In the Madras High Court

Case No : Tax Case No. 441 of 1981 (Reference No. 115 of 1981)

Mala Ramesh

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

Date of Decision : 06-09-1994

Acts Referred:

Income Tax Act, 1961 — Section 45

Citation : (1995) 214 ITR 223

Hon'ble Judges : K.A. Thanikkachalam, J; Gulab C. Gupta, J

Bench : Division Bench

Advocate : S.A. Balasubramaniam, for the Appellant; N.V. Balasubramanian, for the Respondent

Judgement

G.C. Gupta J.

1. This is a reference at the instance of the assessee, referring the following question of law for our opinion :

"Whether, on the facts and in the circumstances of the case, the method adopted by the Tribunal for valuing the cost of shares in the hands of the respective assessee for the purpose of arriving at the taxable capital gains is correct in law ?"

2. The assessee has admittedly held 1,031 shares in Madras Motors and General Insurance Co. Ltd. which was acquired by the Government. The compensation paid was Rs. 197.44 per share and there was dispute about it. Out of this, 147 shares were purchased on February 25, 1971, and the surplus received in relation to the shares was assessable as long-term capital gains and regarding the quantum thereof, there was no dispute. For the balance of 884 shares, the capital gains related thereto was assessable as long-term capital gains. The Tribunal, relying on its earlier order for the assessment year 1973-74, directed the Income Tax Officer to rework the cost of acquisition of the shares in accordance with the directions contained therein. Since this direction is based on

the earlier order of the Tribunal, the matter had come to this court for its decision earlier also. The decision in COMMISSIONER OF Income Tax, MADRAS Vs. T.V.S. and SONS LTD., dealt with this controversy in this question. This court, on a detailed consideration of the facts and the circumstances, in the context of the law on the subject, has held that the method adopted by the Tribunal for valuing the cost of the shares in the hands of the respective assesseees for the purpose of arriving at the taxable capital gains, is correct in law. This court in the said case, therefore, held that the value of the bonus shares does not have to be separately assessed particularly when the entire block of shares held by the shareholders has been sold. This court, therefore, held that the whole cost of the shares, including the bonus shares being a known figure, it would be unnecessary to ascertain the individual cost of each share because by getting at the average cost of the bonus shares the average cost of original shares must inevitably get reduced pro tanto. The Tribunal has admittedly followed this very method in the present case and has not valued the bonus shares separately because the entire shareholding of the company had been acquired by the Government. In this view of the matter, the method adopted by the Tribunal is the method prescribed by this court in the aforesaid judgment. In this view of the matter, it is the considered view of this court that the answer in the aforesaid case would govern the answer in the instant case.

3. In view of the discussion aforesaid, the question referred to this court is answered against the assessee and in the affirmative. There will be no order as to costs. Counsel's fee Rs. 1,000.