
(1991) 08 DEL CK 0082
In the Delhi High Court
Case No : CW No. 2166 of 1983

MANJIT SINGH BASI

APPELLANT

Vs

WEALTH TAX OFFICER and Others

RESPONDENT

Date of Decision : 08-08-1991

Acts Referred:

Citation : (1991) 99 CTR 229

Hon'ble Judges : B. N. Kripal, J;B. N. Kirpal, J

Bench : Division Bench

Judgement

B. N. KRIPAL, J. :

In this petition, the challenge is to the notices issued on 20th March, 1982, to the petitioner under s. 17 of the WT Act.

2. This petition pertains to the asst. yrs. 1973-74, 1974-75, 1975-76 and 1976-77. At the outset we may note that Mr. Bishamber Lal, learned counsel for the petitioner restricts his challenge, in this writ petition, to the notices under s. 17 issued in respect to the asst. yrs. 1974-75 and 1975-76 and reserves his right to challenge the same in course of the reassessment proceedings before the authorities under the Act.

3. In respect to the asst. yr. 1973-74, no assessment was made on the petitioner because no return had been filed. On 20th March, 1982, the impugned notice was issued on the ground that the petitioner had under-valued the shares. In our opinion, there was a complete non-application of mind in the issuance of the said notice. The petitioner had, in fact, not filed any return and, Therefore, the question of under-valuation did not arise. If the respondents had applied their mind, and if the facts existed which showed that the wealth had escaped assessment, then the proper notice seeking to reopen the assessment would have been on the ground that the petitioner had not filed return of wealth. Secondly we find that the petitioner was not a shareholder of M/s. Continental Construction Pvt. Ltd., whose shares are alleged to have been under-valued, on

the last dated of the valuation, viz., 31st March, 1973. The register of shareholders has been produced before us and it shows that the petitioner acquired the shares only on 30th April, 1973. This being so, the question of issuing notice under S. 17 could not arise.

4. As regards the asst. yr. 1976-77, we find that Along with the return of wealth, the petitioner had placed before the WTO a certificate dt. 29th September, 1979 in which the number of shares of Continental Construction Pvt. Ltd. held by the petitioner was indicated. It is also stated therein that the shares were being valued at Rs. 100 each. Particulars of various shareholders, viz, the shares held by different persons, were also filed and in addition thereto and, which is most important, the petitioner had also filed, computation of the market value of the equity shares as per the balance sheet of the company as on 31st December, 1975. This would be relevant in determining the break-up value of the petitioners share as on 31st March, 1976. In addition thereto, we also find from the record of the respondent that a very detailed note regarding valuation of the equity shares of M/s. Continental Construction Pvt. Ltd. for the asst. 1973-74 to 1979-80 had been filed. This note of nearly 17 pages gives the break-up value of the shares and also refers to a number of decisions of different Court, in an effort to justify that the shares should be valued at their face value.

5. The WTO passed the assessment order under s. 16(5) and estimated the taxable wealth at Rs. 3,00,000 though the declared net wealth was Rs. 2,14,890.

6. We find that the assessed had filed all the details which the WTO could have required in determining the proper value of the shares. In law the contention of the petitioner was that though the break-up value was higher, the shares should, for the reasons stated in the said note which was filed, be valued at Rs. 100 each being their face value. The petitioner had, Therefore, filed all relevant material and primary particulars, and the WTO, Therefore, had no jurisdiction to issue a notice under s. 17(1)(a) of the WT Act.

7. For the aforesaid reasons, we issue a writ of mandamus quashing the notices issued under s. 17 to the petitioner in respect to the asst. yrs. 1973-74 and 1976-77.