
(1984) 07 KAR CK 0047
In the Karnataka High Court
Case No : TRC No. 34 of 1978

Paramanand L. Bajaj

APPELLANT

Vs

Commr. of Wealth Tax

RESPONDENT

Date of Decision : 16-07-1984

Acts Referred:

Income Tax Act, 1961 — Section 36 (1)
Wealth Tax Act, 1957 — Section 35, 4 (1) (b)

Citation : (1985) 45 CTR 239 : (1985) ILR (Kar) 1532 : (1985) 20 TAXMAN 153

Hon'ble Judges : Jagannatha Shetty, J; Hakeem, J

Bench : Division Bench

Advocate : S.G. Shivaram, for the Appellant; G. Sarangan and H. Raghavendra Rao, for the Respondent

Judgement

Jagannatha Shetty, J.—The question that has been referred for the opinion of this Court is :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the Wealth-tax Officer had jurisdiction to invoke Section 35 of the Wealth-Tax Act, 1957 ?"

2. The facts behind the legal formulation lie in a narrow compass.

The assessee is a partner of a firm called "Mangoomal Vijaya kumar" in which he had 1/3rd share. In the assessment of that firm for the year 1972-73, the bad debt of Rs. 37,674/- was disallowed by the Income tax Officer. But * TRC No. 34 of 1978 dated 16th July 1984 in the assessment under the Wealth Tax Act pertaining to the assessee, that 1/3rd share of the bad debt was not included. The Wealth-Tax Officer invoked Section 35 of the Wealth-Tax Act and rectified that mistake.

The appeal preferred against the said order was dismissed by the Appellate Assistant Commissioner and so too the further appeal preferred to the Appellate Tribunal.

3. It is not in dispute that the bad debt of Rs. 37,674/- was disallowed in the firm's assessment. u/s 4(1)(b) of the Wealth-Tax Act, where the assessee is a partner in a firm, the value of his interest in the firm shall be included in his net wealth. Rule 2(1) of the Wealth tax Rules provides the method by which the valuation of interest in partnership is to be determined. Rules 2-A and 2-C provide for adjustment in the value of an asset not disclosed in the balance sheet. Rule 2-C provides that the value of an asset not disclosed in the balance sheet shall be taken to be in the case of a debt due to the assessee, the amount due to the assessee, and if any debt has been allowed as a deduction under clause (vii) of sub-section (I) of Section 36 of the Income Tax Act, 1961, the amount, of debt as reduced by the deduction is required to be allowed in computing the net wealth of the assessee. Here, as we have earlier stated, although the bad debt has been claimed by the firm, it was not allowed by the income tax Officer. "That means, that was a debt in respect of which the firm has subsisting right to recover. Quite naturally proportionate amount must be included in computing the value of the assets of the assessee. The individual assessment of the assessee who is a partner of such firm shall fall in line with the assessment of the firm. Not including the proportionate share of the assessee in computing the net wealth was a patent error which could certainly be rectified u/s 35 of the Wealth-Tax Act.

In the result, we answer the question in the affirmative and against the assessee.