(1978) 07 AHC CK 0021

In the Allahabad High Court

Case No : Wealth-tax Reference No. 105 of 1973

P.D. Singhania APPELLANT

Vs

Commissioner of Wealth Tax RESPONDENT

Date of Decision : 12-07-1978

Acts Referred:
Wealth Tax Act, 1957 — Section 24(6)

Citation : (1979) 8 CTR 194 : (1979) 118 ITR 376

Hon'ble Judges : Satish Chandra, C.J;K.C. Agrawal, J

Bench : Division Bench

Advocate : V.B. Upadhya, for the Appellant; Ashok Gupta, for the Respondent

Judgement

Satish Chandra, C.J.—At the instance of the assessee, the Tribunal has referred for our opinion the following questions :

"(i) Whether, on the facts and in the circumstances of the case, the Tribunal was right in saying that the valuers had considered the effect of the provisions of the U.P. Rent Control and Eviction Act in determining the value of the house in dispute ?

(ii) In any case, whether the view of the valuers and/or the Tribunal that the provisions of the U.P. Rent Control and Eviction Act were not material for purposes of the valuation of the house in dispute is right in law ?

(iii) Whether, on the facts and in the circumstances of the case, the value of the house in dispute has been determined correctly ?"

2. The questions relate to valuation of the house property No. 113/8, Swaroop Nagar, Kanpur. This house was used by the assessee, P.D. Singhania, as his residential house. In wealth-tax proceedings the assessee declared the fair market price of the house at Rs. 65,555 as on the preceding valuation dates. This valuation was not accepted by the WTO who enhanced it to some extent for the year 1961-62, though he accepted the assessee''s valuation for the years

1964-65 and 1965-66. The assessee went up in appeal. It appeared to the AAC that the valuation fixed by the WTO was grossly under-valued. He, therefore, issued a notice for enhancement under Sub-section (5) of Section 23 of the W.T. Act. Thereafter, hearing the assessee, the AAC enhanced the valuation and fixed it at Rs. 4,00,000. Being aggrieved by the decision of the AAC, the assessee went up in appeal before the Tribunal. The Tribunal considered it proper to refer the question of the disputed value to the arbitration of two valuers, as provided by Section 24(6)(a) of the Act. The two valuers gave a unanimous valuation report fixing the valuation of the said property at Rs. 1,40,000 on the relevant valuation date.

3. The principal submission raised on behalf of the assessee was that this residential house was governed by the U.P. Rent Control and Eviction Act, 1947, and, therefore, the value of the property should have been determined on the basis of the aforesaid Act. According to the learned counsel, the appropriate method of valuation would be to capitalise the net annual rent by a multiple of 20.

4. As would be seen from the statement of the case, the three assessment years under reference are 1961-62, 1964-65 and 1965-66, of which the relevant valuation dates are March 31; 1961, March 31, 1964, and March 31, 1965, respectively. According to the assessee, the house is situated at No. 113/8, Swaroop Nagar, Kanpur, and is being used for the residential purpose of the assessee. We have, therefore, to find whether the Tribunal committed any error in fixing the valuation at Rs. 1,40,000. The submission, as already stated above, of the learned counsel for the assessee was that the valuation ought to have been done in accordance with the provisions of the U.P. Rent Control and Eviction Act. Section 2 of the said Act defines "annual reasonable rent". According to the definition, the annual reasonable rent of the house in question would be the municipal assessment as on 1st April, 1942, plus 25% thereon. The municipal assessment of the house in question in 1943 was Rs. 4,200 ; adding 25% to the said amount, the same would come to Rs. 5,250. This annual assessment of Rs. 4,200 was, however, enhanced by the Kanpur Municipal Board in 1958 and the same was fixed at Rs. 5,700. It, however, appears to us that for finding out the fair market value of the house, required by Sub-section (1) of Section 7 of the W.T. Act, none of the two figures, mentioned above, afford any criterion. Since the house had not been tenanted and was being used by the assessee himself who was its owner, for his residential purposes, it does not appear to us that the valuation given in the municipal assessment could be a safe guide for the purposes of determination of the fair market value; Precisely for this reason, the Tribunal had not applied the provisions of the U.P. Rent Control and Eviction Act for determining the valuation of the house in question. The Tribunal appointed two valuers for the purpose of finding the correct valuation of the house. The Valuers agreed that the property could fetch more than Rs. 1,000 per month as rent. In this view of the matter, it appears to us that the standard of municipal annual letting value would be wholly illusory particularly when the house had not

been let out.

5. Apart from the above, the learned counsel for the assessee could not suggest any ground on which the judgment of the Tribunal determining the valuation of the house at Rs. 1,40,000 could be said to. be illegal or incorrect.

6. For, these reasons, the questions Nos. 1, 2, and 4 (sic) do not require any specific answer and have to be returned unanswered. Question No. 3, is answered in the affirmative, in favour of the department and against the assessee. In the circumstances, we make no order as to costs.