

**(1971) 11 AP CK 0024**

**In the Andhra Pradesh High Court**

**Case No : Case Referred No. 26 of 1969**

Pingle Venkatarama Reddy (Decd.) and Another

APPELLANT

Vs

Commissioner of Wealth Tax

RESPONDENT

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**Date of Decision :** 03-11-1971

**Acts Referred:**

Wealth Tax Act, 1957 — Section 7

**Citation :** (1972) 85 ITR 132

**Hon'ble Judges :** K.V.L. Narasimham, C.J.; Alladi Kuppuswami, J

**Bench :** Division Bench

**Advocate :** S. Dasaratharama Reddy, for the Appellant; P. Rama Rao, for the Respondent

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## **Judgement**

Alladi Kuppuswami, J.—The question for decision relates to the valuation of certain property for the purposes of wealth-tax for the assessment years 1957-58 to 1960-61.

2. The property consists of 36,936 sq. yards of land in Ahmedabad which had been formerly occupied by a cotton mill, and consists of some old buildings. The open land was let out to tenants who had been permitted to erect semi-permanent structures. The property was valued in a partition dated March 27, 1960, at Rs. 10,20,000. The assessee also relied upon an agreement under which the property was agreed to be sold for about seven lakhs of rupees some time in February, 1956, before the Wealth-tax Officer. The officer, however, found that the annual letting value of the property was Rs. 91,337 and rejecting the partition deed as well as the agreement as not affording a proper basis for arriving at the value, he fixed the value at eighteen lakhs of rupees. On appeal, the Appellate Assistant Commissioner was also not willing to act on the basis of the agreement of 1956. The assessee, thereupon, brought to his notice a draft conveyance deed in April, 1954. The assessee also relied on a valuation report made by an expert, namely, Amin & Desai, consulting engineers and valuation experts. They worked out the value on two different bases. Firstly, they arrived

at the net income of the property at Rs. 97,840. They also stated that, having regard to the circumstances that the future life of the buildings was twenty-five years, if a comprehensive scheme is made for gradual development of the site by putting up new buildings the rental return would not only be maintained, but it would surely increase. For this purpose a sinking fund has to be provided at 4%. In these circumstances, taking the life of the buildings at 25 years and proceeding on the footing that 7% would be a reasonable return and providing for reinvestment at 4% they found that 10.64 is the proper multiple for multiplying the rent to arrive at the capital value. Thus, by so doing, they fixed the value at Rs. 10,41,050. They also calculated the value by taking the area of property at 36,936 sq. yards. They said that the land could be valued at Rs. 15 per sq. yard, the total value being Rs. 5,54,250, and they valued the buildings at Rs. 5,11,000. The total value of the property according to this basis came to Rs. 10,65,250. Taking the average of the values as arrived at by the two methods, they stated that Rs. 10,53,150 is the reasonable value.

3. The Appellate Assistant Commissioner accepted the position that the value of the buildings could be taken at Rs. 5,11,000. He, however, stated that the land should be valued at Rs. 23 per sq. yard. At that rate he arrived at the total value of Rs. 13,41,208 for the entire property and concluded that it would be fair to adopt a value of Rs. 13.25 lakhs.

4. On further appeal, the Tribunal held that the agreement of 1954 as well as the agreement of 1956 could not be relied on. They also stated that the valuation of the architects was without basis and could not be accepted. They, however, observed that as the net income was Rs. 97,840, the Appellate Assistant Commissioner's valuation of Rs. 13.25 lakhs postulated an yield of about 7.4 per cent. which was quite reasonable. Therefore, they dismissed the appeal.

5. It is seen from the above statement of facts that the Appellate Assistant Commissioner accepted the value of the buildings as given in the expert's valuation report at Rs. 5,11,000. He, however, did not accept the value of the land adopted by them. The experts in their report had stated that the value of the land could be taken at Rs. 15 per sq. yard considering the prevailing market rates of other lands in the locality. No reason is given by the Appellate Assistant Commissioner as to why that rate could not be accepted by him. He merely said that considering that the land was situated in an industrial area it would be fair to value the entire land at an average price of Rs. 23 per sq. yard. The order does not disclose on what basis the Appellate Assistant Commissioner fixed the value at Rs. 23 per sq. yard. The learned counsel for the department also was not able to point out any evidence which was before the authorities or the Tribunal on the basis of which it could be stated that Rs. 23 represented the correct market value of the land.

6. Under the Act the price which the property would fetch if sold in the market on the relevant date has to be ascertained. Such an ascertainment has to be on the basis of evidence. The burden is upon the authorities to find out the true value

and there should be an earnest endeavour on their part to arrive at such value in accordance with the accepted principles of valuation. Several methods are open for valuation. The cost of the land and the super-structures may be determined separately and added. Or the capital value may be ascertained with reference to the rental value. The valuers of the assessee adopted both methods and arrived at approximately the same figure. The Appellate Assistant Commissioner chose to adopt the first method. He accepted the expert's valuation of the building, but chose to fix Rs. 23 per sq. yard as the value of the land. It is true that the value adopted by the expert is not binding on the officer, but in case he decides not to act upon that evidence and adopts another valuation, that valuation has to be on the basis of some material. In this case, as has already been observed, the order of the Appellate Assistant Commissioner does not disclose any material on which he valued the land at Rs. 23 per sq. yard.

7. The Appellate Assistant Commissioner having proceeded to value the buildings and lands separately and accepted the expert's valuation of the buildings and rejected their valuation of the land and valued it at Rs. 23 per sq. yard, it was the duty of the Tribunal to consider the question whether that was the correct value having regard to the evidence. It does not appear from the order that they did so. On the other hand, they chose to affirm the total value arrived at by the Appellate Assistant Commissioner merely on the ground that it would yield a net return of 7.4 per cent. If, on the other hand, the Tribunal felt that the value had to be ascertained with reference to the rent which was admitted by the department to be Rs. 97,840, the Tribunal should have considered that question and arrived at a decision. The expert had valued it on this basis also. He had found that the net rental value was Rs. 97,840. This figure is not questioned by the department. The expert placed the future life of the buildings at 25 years as stated earlier, adopted the multiple as 10.64, whereas the Wealth-tax Officer adopted 20 times the rental value as the proper basis and arrived at Rs. 18 lakhs as the value of the property. The Appellate Assistant Commissioner considered this value as too high and did not proceed to consider which was the proper multiple as he chose to arrive at the value by valuing the lands and buildings separately. The Tribunal while referring to this method of valuation by the expert observed "that the expert had not cited any accredited authority in support of the method applied by them" and it had no rational basis. The learned counsel for the assessee drew our attention to the Park's Valuation Tables and stated that the expert adopted Rs. 10.64 as the proper multiple having regard to those tables, though it is not mentioned in the report that this multiple is based upon the Park's Valuation Tables. Sri Rama Rao, learned counsel for the respondent, did not dispute that, having regard to the admitted facts, namely, that the future life of the buildings is 25 years and 7% would be a proper return, the proper multiple in this case is 10.64. In the circumstances, the Tribunal was wrong in stating that there was no rational basis for that method of valuation by the expert. No other reason was given by the Tribunal for not accepting that valuation.

8. For all these reasons we are of the view that on the facts and circumstances of the case the order of the Tribunal affirming the valuation fixed by the Appellate Assistant Commissioner was not based on any material. In the result, both the questions referred to us are answered in favour of the assessee. No order as to costs.