(2009) 08 KL CK 0010

In the High Court Of Kerala

Case No : W.T.A. No''s. 172, 175 to 177 of 2009

P.K. Kurian APPELLANT

Vs

Assistant Commissioner of Wealth Tax and Another RESPONDENT

Date of Decision : 25-08-2009

Acts Referred:

Citation : (2010) 329 ITR 529

Hon'ble Judges : C.N. Ramachandran Nair, J;C.K. Abdul Rahim, J

Bench : Division Bench

Advocate : P. Balakrishnan, for the Appellant; K.R. Menon and Jose Joseph, for the Respondent

Final Decision : Dismissed

Judgement

C.N. Ramachandran Nair, J.—The connected appeals are filed by the Assessee questioning the revised wealth-tax assessments on the ground that such assessments are time-barred. Admittedly, original wealth-tax assessments completed were reopened for the reason that chargeable wealth has escaped assessment. All the assessments completed were within 10 years and since the net wealth escaped assessment in the original assessments was above Rs. 10 lakhs, the Tribunal sustained the assessments in terms of Section 17(1A)(iii) of the Wealth-tax Act, 1957.

2. After hearing counsel appearing for the Appellant and on going through the orders, we find that reopening is made only because the Assessee declared higher value for the landed properties in the Income Tax assessment for a later year when the properties were sold. In fact, the base year market value declared as on April 1, 1981, was much higher than the value declared in the wealth-tax returns based on which assessments were completed. In fact, the declaration of higher market value as on April 1, 1981 was accepted by the Department in the computation of long-term capital gains in the Income Tax assessments. We are of the view that the Assessee is a beneficiary in the deal inasmuch as the option to the Income Tax Officer was either to reject the Assessee''s claim in the Income

Tax assessment and demand higher tax or to accept the same in the wealth-tax assessment. The latter course adopted by the officer, in our view, is more beneficial to the Assessee and, therefore, in the Assessee''s own interest we should reject the contention. In any case since the reason for reopening assessment is the Assessee''s own admission of higher value, reopening is justified and since the net wealth is above Rs. 10 lakhs, the Tribunal rightly held that the assessments are not time-barred. Consequently, we dismiss the appeals.