

(1982) 12 PAT CK 0007
In the Patna High Court
Case No : Taxation Case No. 20 of 1974

RAM SINGH

APPELLANT

Vs

COMMISSIONER OF WEALTH TAX.

RESPONDENT

Date of Decision : 22-12-1982

Acts Referred:

Wealth Tax Act, 1957 — Section 27(3)

Citation : (1987) 62 CTR 173

Judgement

By the Court - Pursuant to a direction of this Court under s. 27(3) of the WT Act, 1957 (hereinafter to be referred to as the Act) the ITAT, Patna Bench A, has referred the following question of law for the opinion of this Court.

"Whether on the facts and in the circumstances of the case, the imposition of penalty and the quantum of penalty levied for the late filing of return is legal and proper ?"

2. Accordingly, a statement of the case has been submitted by the Tribunal to this Court bearing out the facts which are not much in controversy. The assessee held 145 shares of M/s. Indian Machinery Stores (P.) Ltd. and besides this, he was having certain deposits with the said company. The assessment relates to the asst. yr. 1969-70. The return of wealth for this year was accepted by the WTO at Rs. 1,61,943. The returns were to be filed on 30th June of each assessment year and in this year it was due on 30-6-1969. The return was filed on 3-2-1970, when the returns for the earlier years were also filed. The WTO initiated proceedings under s. 18(1)(a) of the Act in view of the long delay in filing of the returns and during this assessment year the delay was for a period of seven months. Before the WTO it was stated that the assessee filed the return when he came to know his liability under the WT Act. The WTO did not consider this to be a satisfactory explanation and he imposed a penalty of Rs. 2,170 only. It is worthwhile to note here, as would appear from the statement of the case submitted, that similar imposition of penalties were fastened for other years also but the quantum of penalty imposed was different for different years. A copy of

the order of the WTO imposing penalty has been made Annexure A forming part of the statement of the case.

3. The assessee being aggrieved by the order of the WTO preferred an appeal before the AAC, who upheld the order of the WTO as he found that the assessee had wealth above the taxable limit. He also held that there was nothing to suggest from the records that till the date of filing of the return the assessee was under the belief that his wealth did not exceed the taxable limit. He also upheld the quantum of penalty. A copy of the order of the AAC has been marked Annexure-B forming part of the statement of the case.

4. On a further appeal being pursued before the Tribunal it was submitted on behalf of the assessee that he was under a bona fide belief that his wealth was not taxable. It was also submitted that in such a case it was for the department to prove that the default was deliberate and reliance was placed on certain case laws. The Tribunal considered the facts and held that -

"..... For the detailed reasons given in our order in W.T.A. Nos. 97-101-Pat/72-73 (a case out of which gave rise Taxation Case No. 19 of 1974, decided by us by a separate judgment of the date), we hold that the WTO was justified in imposing penalty in these cases in all these years"

Having thus agreed with the finding of the AAC that no reasonable cause had been made out the Tribunal in the appellate order, which has been appended as Annexure C to the statement of the case, upheld the quantum of penalty, imposed for the assessment year in question, although, insofar as the quantum of penalty with regard to earlier years were concerned, the same was reduced to some extent.

5. This being the salient and undisputed facts the aforementioned question of law has been referred to this Court.

6. So far as the question of law is concerned, it is now merely of academic importance in view of the two decisions directly covering the point. One of such decisions is that of our own Court in the case of Jagannath Singh Vs. Commissioner of Wealth Tax, and the other decision of the Supreme Court in the case of Commissioner of Wealth Tax, Amritsar Vs. Suresh Seth, . For the reasons given in the aforementioned two judgments it is needless for us to go into the question as if it were res in tegra. The point is directly covered by the two decisions aforementioned in favour of the Revenue.

7. We, accordingly, answer the question, referred to this Court, in the affirmative in favour of the revenue and against the assessee, and hold that on the facts and in the circumstances of the case imposition of penalty and quantum of penalty levied for the late filing of the return was legal and proper. On the facts and in the circumstances of the case, however, we shall make no order as to costs.