
(1990) 04 AHC CK 0036

In the Allahabad High Court

Case No : Wealth-tax Application No. 307 of 1989

Ramdas Deoki Nandan Prasad

APPELLANT

Vs

Commissioner of Wealth Tax

RESPONDENT

Date of Decision : 30-04-1990

Acts Referred:

Wealth Tax Act, 1957 — Section 27, 27(3)

Citation : (1991) 188 ITR 682

Hon'ble Judges : B.P. Jeevan Reddy, C.J;R.K. Gulati, J

Bench : Division Bench

Advocate : R.S. Agarwal, for the Appellant;

Final Decision : Dismissed

Judgement

1. By this application u/s 27(3) of the Wealth-tax Act, 1957, the assessee is requesting this court to direct the Tribunal to refer the following questions for the opinion of this court. :

"1. Whether the Tribunal was legally correct in holding that the business activities carried on by Shri Ashok Kumar Baranwal and Smt. Kamla Devi represented the activities of the assessee-Hindu undivided family ?

2. Whether the Tribunal was legally correct in upholding the inclusions of investments in the business activities that had admittedly been carried on by Shri Ashok Kumar Baranwal and Smt. Kamla Devi individually, without any help and assistance of the Hindu undivided family funds, in the net wealth of the assessee-Hindu undivided family ?

3. Whether the findings given by the Tribunal with regard to the inclusion of business assets belonging to Shri Ashok Kumar Baranwal and Smt. Kamla Devi are not vitiated in law as having been arrived at without considering the relevant material and evidence on record ?

4. Whether there was any material before the Tribunal to hold that the business

activities carried on by Shri Ashok Kumar Baranwal and Smt. Kamla Devi belonged to the assessee-Hindu undivided family and there was an investment to the extent of Rs. 2,80,000 (1,40,000 + 1,40,000) in these activities ?

5. Whether there was any material to hold that Shri Hira Lal Baranwal was the karta of the assessee-Hindu undivided family and as on the valuation date was possessed of any wealth which was liable to be included in the net wealth of the assessee-Hindu undivided family ?

6. Whether there was any material to hold that the additions of :

Rs. 1,99,500

on account of alleged unexplained investment in the business in the name of Shri Hira Lal Baranwal ;

Rs. 7,753

alleged unexplained investment in the purchase of yarn by Shri Hira Lal ;

Rs. 33,086

on account of demand draft received in the name of Hira Lal ;

Rs. 18,879

on account of alleged unexplained deposits with Hindustan Commercial Bank ;

as made in the earlier year, were available as assets for being included in the net wealth of the assessee-Hindu undivided family as on the valuation date ?

7. Whether the Tribunal was legally correct in holding that the assessee-Hindu undivided family was the owner of :

(a)

Rs. 5,42,352

representing the cash seized at the time of search operations ;

(b)

Rs. 98,141

representing the value of ornaments seized by the Income Tax Department in 19Y3 ;

(c)

Rs. 80,000

representing the value of jewellery seized by the customs department in 1973 (valued at Rs. 71,571 in 1973)

as were found and recovered at the time of search operations in 1973 and the

same were includible in its "net wealth" ?

8. Whether irrespective of the findings with regard to the ownership of :

(a)

Rs. 5,42,352

representing the cash seized at the time of search operations ;

(b)

Rs. 98,142

representing the value of gold ornaments seized by the Income Tax Department in 1973 ;

(c)

Rs. 80,000

representing the value of jewellery seized by the customs department in 1973 (valued at Rs. 71,571 in 1973) ;

the Tribunal should not have held that the said valuables were not available as "asset" belonging to the assessee within the meaning of Section 2(m) of the Wealth-tax Act, 1957, as on the relevant valuation date for being included in the net wealth of the assessee-Hindu undivided family ?

9. Whether the Tribunal was legally correct in not admitting the additional plea taken by the appellant with regard to the valuation of residential properties according to the method laid down under Rule 1BB of the Wealth-tax Rules ?

10. Whether the Tribunal was legally correct in not admitting the assessee's plea for statutory deduction u/s 5(1)(iv) with regard to the residential house ?"

2. So far as questions Nos. 7 and 8 are concerned, they indeed form but one question and the Tribunal has referred the same for opinion to this court

3. So far as questions Nos. 1 to 6 are concerned, identical questions were asked to be referred by the assessee for the previous assessment year but was declined. A petition u/s 27(3) of the Wealth-tax Act in that behalf was also rejected by this court. Counsel for the assessee, however, says that on this occasion the assessee proposed to place some additional material before the court. Had that material been considered, the Tribunal would have come to a different conclusion. He says that the Tribunal has erroneously refused to receive and look into such additional material. We have seen the order of the Tribunal. We cannot say that the reasons given by it for refusing to admit additional evidence are not relevant. Inter alia, it pointed out that this evidence was available to the assessee long prior to the time when it was sought to be adduced as additional evidence and there is no explanation why it was not filed earlier. If so, the said questions cannot be directed to be referred.

4. So far questions Nos. 9 and 10 are concerned, the Tribunal has clarified that since the matter has been remanded to the Wealth-tax Officer on the question of valuation, the assessee, may, if so advised, raise the said aspects before the officer. In view of this clarification, there is no occasion to direct the said questions to be stated.

5. The wealth-tax application is accordingly dismissed.