(1988) 07 DEL CK 0016

In the Delhi High Court

Case No : WT Case No''s. 59 of 1983 and 91 to 98 of 1987

S. Arjan Singh APPELLANT

Vs

Commissioner of Wealth Tax RESPONDENT

Date of Decision : 26-07-1988

Acts Referred:
Wealth Tax Act, 1957 — Section 27(1), 27(3)

Citation : (1988) 41 TAXMAN 272

Hon'ble Judges : Leila Seth, J;A.B. Saharya, J

Bench : Division Bench

Advocate : Harnam Shankar, for the Appellant; K.K. Wadhera and R.C. Pandey, for the Respondent

Judgement

1. These are nine applications by the assessee u/s 27(3) of the Wealth-tax Act, 1957 (''the Act'') and pertain to the assessment years 1963-64, 1964-65 and 1966-67 to 1972-73. In these applications, the assessee has asked for the following three questions to be referred :

1. Whether, on the facts and in the circumstances of the case, the Tribunal erred in law in holding that the valuation of the property computed in accordance with the direction of the Tribunal be not less than that returned by the assessee itself ?

2. Whether, on the facts and in the circumstances of the case, the income tax Appellate Tribunal erred in law in holding that the principles laid down by the Supreme Court in the case of Dewan Daulat Rai Kapoor and Others Vs. New Delhi Municipal Committee and Others, were not relevant for the purpose of determination of the valuation of the property under rule 1BB of the Wealth-tax Rules ?

3. Whether, on the facts and in the circumstances of the case, the Tribunal erred in law in holding that the factors that the property fronted on the service lane and not on the main road, that it was a fully developed plot on which no further construction would be allowed or was allowed, and part of the property was

situated in an area which had been earmarked for high rise public sector buildings were not relevant for determining the valuation of the property ?

However, at the time of argument, Mr. Harnam Shankar stated that he was pressing only question No. 1 as question No. 2 is already covered by the question referred by the Tribunal as per its order dated 23-1-1981. He conceded that question No. 3 was a question of fact and need not be referred. The dispute in the case relates to valuation of 20A, Aurangzeb Road, New Delhi. The assessee had indicated a certain value in the return.

The WTO referred the matter to a valuer and accepted the value determined by the Valuation Officer. The assessee appealed to the AAC that the Valuation Officer had, inter alia, not deducted 50 per cent of the unearned increase to be paid to the Land and Development Officer on transfer, in arriving at the valuation. The AAC rejected the contention but the Tribunal held that after 1951, this payment became obligatory and the said amount has to be allowed as a deduction in arriving at the valuation of the property in the light of the principles laid down by the Supreme Court in Commissioner of Wealth Tax, New Delhi Vs. P.N. Sikand, . Consequently, the Tribunal directed the WTO ''to recompute the value of the property in different years in the light of the above directions'' but indicated that the recomputed value will not be less than that returned by the assessee in those years.

2. The assessee moved the Tribunal u/s 27(1) to refer, inter alia, the abovementioned question No. 1. The Tribunal did not refer the said question as it felt that the answer would be self-evident.

3. It is apparent that question No. 1 is a question of law and does arise out of the order of the Tribunal. We do not think that the answer is self-evident, as in certain circumstances a valuation lower than that returned may be the correct value. An admission is an important piece of evidence, but it is not conclusive and it is open to the assessee to show that it is incorrect-- see Pullangode Rubber Produce Co. Ltd. Vs. State of Kerala and Another, .

4. Mr. Harnam Shankar has referred to the case of G.N. Dalmia Vs. Commissioner of Wealth Tax, Delhi III, wherein this Court has referred a similar question, i.e., ''Whether the Tribunal is right in holding as implicit that what is shown by the assessee in the wealth-tax returns will be accepted by the WTO, if it is higher than the valuation of the property arrived at by the application of rule 1BB ?''

5. The basic question is, if the value as calculated under rule 1BB is less than the value shown in the return, can the assessee get the benefit of this lower value ? We feel that this is a question which needs determination and should be referred, as otherwise, recomputation of the value of the property on the principles of P.N. Sikand''s case (supra) will not be fully carried out.

6. We, therefore, direct the Tribunal to draw up a statement of case and refer

question No. 1 as abovementioned for the opinion of this Court. The statement of case should be a consolidated statement for all the years in question. The applications are disposed of accordingly.

