(1988) 06 GAU CK 0035

In the Gauhati High Court

Case No : Wealth-tax Reference No. 2 of 1975

S. Charan Singh APPELLANT

Vs

Commissioner of Wealth-tax RESPONDENT

Date of Decision : 23-06-1988

Acts Referred:

Finance Act, 1969 — Section 24
Wealth Tax Act, 1957 — Section 18, 18(1)

Citation : (1989) 176 ITR 285

Hon'ble Judges : A. Raghuvir, C.J;R.K. Manisana, J

Bench : Division Bench

Advocate : A. Sarma and U. Baruah, for the Appellant; None, for the Respondent

Judgement

A. Raghuvir, C.J.—S. Charan Singh is the assessee in this reference u/s 27(1) of the Wealth-tax Act, 1957. The following are the two questions referred :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that although the show-cause notices u/s 18(2) of the Wealth-tax Act, 1957, were issued for non-compliance with the provisions of the notices u/s 14(2) of the Wealth-tax Act, penalty orders imposing penalties for the default u/s 14(1) of the Wealth-tax Act, 1957, for the assessment years 1966-67 and 1968 - 69 were valid and were not void ab initio ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in upholding the order of penalty for the assessment years 1966-67, 1967-68 and 1968-69, on the finding that the calculation of penalty for the default up to March 31, 1969, was to be made u/s 18(l)(i) of the Wealth-tax Act, 1957, as substituted with effect from April 1, 1965, by Section 18 of the Wealth-tax (Amendment) Act, 1964, and thereafter u/s 18(l)(i) as substituted by Section 24 of the Finance Act, 1969 ?"

2. In the two questions, the issue relates to levy of penalty for the three assessment years 1966-67, 1967-68 and 1968-69. Returns for the three years

were submitted by the assessee on May 18, 1970, beyond the due dates. The Wealth-tax Officer imposed penalties of Rs. 14,505, Rs. 15,082, and Rs. 14,840, respectively. The Appellate Assistant Commissioner of Wealth-tax, Jorhat Range, on appeal, confirmed the decision and directed that the amount of penalties be modified. The Appellate Tribunal, on further appeal, held : "As a matter of fact, the Appellate Assistant Commissioner had allowed relief to the assessee even beyond the date of the submission of the return of net wealth as required u/s 14(2) of the Act. Therefore, the grievance of the assessee with reference to the assessment years 1966-67 to 1968-69 in the context of pleas taken before us does not subsist at this stage." (emphasis supplied)

3. We see in the first question that the assessment years are 1966-67 and 1968-69. In view of the fact that the issue does not "subsist" as held by the Appellate Tribunal, the first question does not call for any answer.

4. The second question, besides referring to assessment years 1966-67 and 1968-69 also refers to the assessment year 1967-68. We have recorded, relevant to question No. (1), that the issue does not "subsist" for the assessment years 1966-67 and 1968-69. The issue, however, subsists for the assessment year 1967-68 and requires to be answered.

5. We have today answered a like question in Wealth-tax Reference Case No. 8 of 1975 T.K. Baruah Vs. Commissioner of Wealth-tax, and in that we have followed the ratio in Maya Rani Punj Vs. Commissioner of Income Tax, Delhi, . Following the above decision, we answer the second question in the affirmative, relevant to the penalty for the assessment year 1967-68, in favour of the Revenue and against the assessee. No costs.