
(1992) 03 DEL CK 0070
In the Delhi High Court
Case No : W.T.C. No. 44 of 1991

Sarla Devi Singhania

APPELLANT

Vs

Commissioner of Wealth Tax

RESPONDENT

Date of Decision : 24-03-1992

Acts Referred:

Citation : (1993) 200 ITR 580

Hon'ble Judges : P.K. Bahri, J; B.N. Kirpal, J

Bench : Division Bench

Advocate : R. Santhanam, for the Appellant; Rajendra, for the Respondent

Judgement

1. The petitioner seeks reference of the following two questions to this court :

"1. Whether, on the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal, Delhi Bench "E", was justified in holding that the sum of Rs. 23,309 representing the amount of compensation initially awarded and which remained in dispute till August 23, 1982, and which was received on April 5, 1984, was includible in the net wealth of the assessed for the assessment year 1977-78 for which the relevant valuation date is March 31, 1977 ?

2. Whether, on the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal, Delhi Bench "E", was justified in rejecting the assessed's claim for exclusion of Rs. 7,890 being the balance standing to her credit in the compulsory deposit account on the relevant valuation date by virtue of its being in the nature of a right to receive annuity and hence not being liable to be regarded as an asset ?"

2. As regards question No. 2, a similar question was called for by us in Sita Ram Singhania Vs. Commissioner of Wealth Tax, . This question has, Therefore, to be referred.

3. As regards question No. 1, we find from the facts that, after the land was acquired under the provisions of the Land Acquisition Act, a sum of Rs. 23,309

was offered as compensation by the Collector. A reference u/s 18 of the Land Acquisition Act was filed whereby the petitioner sought enhanced compensation. This dispute with regard to enhancement of compensation was decided on August 23, 1982. The contention of the petitioner is that, on the relevant valuation date, i.e., March 31, 1977, pertaining to the assessment year 1977-78, with which we are concerned in this case, this amount of Rs. 23,309 could not be added to the income as the amount was in dispute. He further submits that, in the alternative, only a discounted value could be taken into account.

4. We are unable to agree with this contention. When the Collector makes an award, the amount which is offered can, under no circumstance, be reduced. With the acquisition proceedings having become final and the possession of the land having been taken from the petitioner prior to the valuation date, the question of Rs. 23,309 not being paid to the petitioner does not arise. The petitioner may choose not to receive this money but his right to receive this money became final with the possession of the land being taken. The question of the principle of discounted value being applied would not arise in such a case. The petitioner chose not to receive this amount because a reference had been filed u/s 18 of the Act for enhancement of the compensation. There was nothing in law which prevented the petitioner from receiving this sum of Rs. 23,309 under protest and without prejudice to his claim u/s 18 of the Act. In our opinion, the sum of Rs. 23,309 was clearly an asset of the assessed as on the valuation date. In fact, before the assessing authority, the assessed consented to this amount being added.

5. It is contended by learned counsel for the petitioner that no distinction can be drawn between the original compensation and the enhanced compensation in view of the Supreme Court decision in *Mrs. Khorshed Shapoor Chenai and Others Vs. Assistant Controller of Estate Duty, Andhra Pradesh and Others*, . In our opinion, the said judgment of the Supreme Court has no application to this case. There, the court was concerned with the right of a person to receive enhanced compensation at the time of his death. We are here concerned with a different question, viz., whether the amount of Rs. 23,309 was due to the petitioner or was an asset of the petitioner as on the valuation date. The answer to this can only be one, that is in the affirmative. Learned counsel for the petitioner is unable to bring to our notice any provision of law which deprives the petitioner of the amount of Rs. 23,309 after the acquisition has become final.

6. The answer to question No. 1 is, Therefore, self-evident and, Therefore, the question need not be referred.

7. For the aforesaid reasons, this application is partly allowed and the Tribunal is directed to state the case and refer question No. 2 to this court.

8. There will be no order as to costs.