

(1988) 02 MAD CK 0034

In the Madras High Court

Case No : Tax Case No. 393 of 1979 (Reference No. 236 of 1979)

Saroja Ravindran

APPELLANT

Vs

Commissioner of Wealth-tax

RESPONDENT

Date of Decision : 17-02-1988

Acts Referred:

Wealth Tax Act, 1957 — Section 5(1), 5(1A)

Citation : (1988) 70 CTR 1 : (1989) 177 ITR 302

Hon'ble Judges : M.N. Chandurkar, C.J.; M. Srinivasan, J

Bench : Division Bench

Advocate : S. Swaminathan, for the Appellant; Nalini Chidambaram, for the Respondent

Judgement

M.N. Chandurkar, C.J.—The question which has been referred at the instance of the assessee reads as follows:

Whether, on the facts and in the circumstances of case, the 12-year National Defence Certificates and 10-year Defence Deposit Certificates of

the value of Rs. 50,000 held by the assessee were not entitled to exemption under the Wealth-tax Act, 1957 ?

2. The assessee in her wealth-tax assessment for the assessment year 1975-76 claimed exemption from tax with reference to agricultural lands,

residential house and 12-year National Defence Certificates and 10-year Defense Deposit Certificates held by her of the total value of Rs. 50,000.

These certificates were purchased by the assessee on March 31, 1964, and March 2, 1968, respectively. The assessee had also claimed

exemption from tax to the extent of Rs. 1,50,000 out of the value of shares held by her in various limited companies and deposits in banks. The

Wealth-tax Officer rejected the assessee's claim for exemption of the value of the

12-year National Defence Certificates and 10-year Defence

Deposit Certificates, though admittedly, these were held by the assessee from a date prior to March 1, 1970.

3. On appeal, the Appellate Assistant Commissioner, however, deleted a sum of Rs. 50,000 from the net wealth of the assessee purporting to do

so under the proviso to section (5)(1A) of the Wealth-tax Act. The Revenue challenged this order before the Tribunal. The Tribunal allowed the

appeal holding that there was no ambiguity in section 5(1A) of the Act and it is only when items (XV) and (XVI) in section 5 of the Act themselves

exceed the value of Rs. 1,50,000 that the entire amount was eligible for the exemption. The order of the Appellate Assistant Commissioner was,

therefore, set aside. Out of this order of the Tribunal, the question reproduced above has been referred for the decision of this court.

4. Learned counsel for the assessee contended that under the proviso to section 5(1A) of the Wealth-tax Act as was in force at the material time in

the case of the assessee, exemption from wealth-tax must be to the extent of Rs. 2,00,000, that is to say, the certificates in question were entitled

to exemption separately in addition to the general exemption permitted to the extent of Rs. 1,50,000. The controversy seems to be concluded at

least by three decisions against the assessee with which we are inclined to agree, because it appears to us that that is the only construction possible

on a plain reading of the relevant provision.

5. There is no doubt that the certificates in question fall squarely in item (xvi) only. In item (xvi), in section 5(1A) of the Wealth-tax Act, it is

expressly provided that nothing contained in this clause shall operate to exclude from the net wealth of the assessee any assets referred to in the

clauses mentioned in that section to the extent the value thereof exceeds in the aggregate a sum of Rs. 1,50,000 at the material time Certificates in

item (xvi) are one of the items referred to in section 5(1A). The plain meaning of section 5(1A) of the Act, therefore, is that in respect of the assets

which are specified in section 5(1A), exemption from wealth-tax is permissible only to the limit of Rs. 1,50,000 and anything in excess of the value

of Rs. 1,50,000 will not be entitled to exemption. There is a proviso to section 5(1A) which reads as follows:

Provided that where the assets include any assets referred to in clause (xv) or

clause (xvi) [not being deposits under the Post Officer Savings Bank (Cumulative Time Deposits) Rules, 1959], which have been owned by the assessee continuously from a date prior to the March 1, 1970, and the value of the assets so included exceeds the limit of one hundred and fifty thousand rupees by any amount, such limit shall be raised by the said amount".

6. Learned counsel for the assessee wants to construe this proviso as to mean that the asset referred to in clause (xvi) is independently entitled to exemption, even though those assets are worth Rs. 50,000 only, because, according to him, this proviso provides for raising the limit by the value of the assets in clause (xvi). Such a construction, in our view is plainly contrary to the words of the section. The proviso contemplates two conditions, (1) that the assets referred to in clause (xv) and clause (xvi) must be owned by the assessee continuously from a date prior to the March 1, 1970, and the value of those assets must exceed the limit of Rs. 1,50,000. The words "the value of the assets so included" obviously referred to the assets in clause (xv) or in clause (xvi). Having regard to the opening words of the proviso, it is only where the value of the assets referred to in clause (xv) or clause (xvi) exceeds the limit of Rs.1,50,000 that the basic limit of exemption of Rs. 1,50,000 is raised only by such amount by which the value of the assets in clauses (xv) and (xvi) exceed the amount of Rs. 1,50,000. This is the only construction which is possible of the words of the section. We are supported in this view by the decision of the Kerala High Court in Commissioner of Wealth Tax Vs. H.H. Sethu Parvathi Bayi and H.H. Lekshmi Bayi, , and the decision of the Karnataka High Court in K.S. Ayodhyanath Vs. Commissioner of Wealth Tax, Karnataka, and the decision of the Gujarat High Court in K.S. Digvijaysinhji Vs. Commissioner of Wealth-tax, Rajkot, . In all these decisions, it has been held that the question of raising the limit under the proviso would arise only in cases where the value of the assets referred to in clauses (xv) and (xvi) of section 5(1A) of the Wealth-tax Act, exceed Rs. 1,50,000 and that where the value of such assets does not exceed Rs. 1,50,000 the question of raising the limit under clause (xv) or (xvi) does not arise at all. In this view of the matter, the question referred has to be answered in the affirmative in favour of the Revenue. It is accordingly answered.

The assessee to pay the costs. Counsel's fee Rs. 500.