
(1996) 09 P&H CK 0061

In the Punjab And Haryana At Chandigarh

Case No : Estate Duty Reference No. 4 of 1980

Sat Pal (decd.) (thro Smt. Satya Wati)

APPELLANT

Vs

Controller of Estate Duty

RESPONDENT

Date of Decision : 19-09-1996

Acts Referred:

Estate Duty Act, 1953 — Section 14, 15, 2(15)

Citation : (1997) 223 ITR 187

Hon'ble Judges : N.K. Agrawal, J; Ashok Bhan, J

Bench : Division Bench

Advocate : S.S. Mahajan and Aparna Mahajan, for the Appellant; R.P. Sawhney and Sanjay Goyal, for the Respondent

Judgement

Ashok Bhan, J.—The following question of law, at the instance of the accountable person, has been referred to us by the Income Tax Appellate Tribunal, Amritsar (hereinafter referred to as "the Tribunal"), for opinion :

" Whether, on the facts and in the circumstances of the case, the Tribunal is correct in holding that an amount of Rs. 40,000 received by the legal heir of the deceased from the Life Insurance Corporation under the double benefit scheme is liable to estate duty under the Estate Duty Act, 1953 ?"

which arises out of the following facts :

Sat Pal died on April 6, 1970. He had taken a double benefit life insurance policy of Rs. 40,000. In the event of death by accident, on payment of extra premium, the same was to be double the assured amount of Rs. 40,000, Sat Pal died in an accident and a sum of Rs. 93,196 was received by the legal heirs. The accountable person, Smt. Satya Wati, wife of the deceased, claimed exemption from estate duty in respect of the amount of Rs. 40,000 received on account of the double benefit claim paid to the legal heirs due to the death of the deceased in an accident.

2. The Assistant Controller of Estate Duty negated the claim for exemption by

pointing out that though the money received of Rs. 40,000 was not chargeable u/s 14 of the Estate Duty Act, 1955 (hereinafter referred to as "the Act"), it was, however, still liable to duty u/s 15 of the Act. The accountable person filed an appeal before the Appellate Controller of Estate Duty. The appeal was dismissed by the appellate authority, relying upon a Gujarat High Court judgment in *Bharatkumar Manilal Dalal Vs. Controller of Estate Duty, Gujarat*, .

3. The accountable person filed a further appeal to the Tribunal who also rejected her contention by relying upon certain judgments of different High Courts. The relevant paragraph 3 of the order of the Tribunal reads as under :

" We have considered a similar question in the decision cited by the Departmental representative, namely, E. D. A. No. 22 of 1977-78. On a consideration of the decisions of the three High Courts, namely, the Delhi High Court in *The Controller of Estate Duty, Delhi Vs. Late A.T. Sahani through L.A. Sahani*, New Delhi, ; the Gujarat High Court decision in *Bharatkumar Manilal Dalal Vs. Controller of Estate Duty, Gujarat*, and the Madras High Court decision in the case of *M. Ct. Muthiah and Another Vs. Controller of Estate Duty*, the amount of Rs. 40,000 in the case of the accountable person is clearly liable to estate duty u/s 15 of the *M. Ct. Muthiah and Another Vs. Controller of Estate Duty*, had held that moneys payable under the accident policy were also liable to estate duty u/s 6 of the *Bharatkumar Manilal Dalal Vs. Controller of Estate Duty, Gujarat*, held the amount received under an accident policy to be taxable not only under Sections 6 and 15, but also u/s 5 of the Estate Duty Act. Consequently, we uphold the action of the lower authorities in including the amount of Rs. 40,000 in the estate of the deceased and reject the accountable person's contention. "

4. The accountable person had received a sum of Rs. 93,196 from the Life Insurance Corporation of India, out of which Rs. 40,000 was money payable under the personal accident insurance policy taken out by the deceased. The dispute is as to whether the sum of Rs. 40,000 received by the accountable person from the Life Insurance Corporation under the double benefit scheme due to death by accident is liable to estate duty under the Act or not.

5. Counsel appearing for the accountable person has argued that the money payable under the personal accident insurance policy is not chargeable to estate duty u/s 14 of the Act. He further argued that the judgments on which reliance was placed by the Tribunal stand overruled/ reversed by the Supreme Court of India in *Bharat Kumar Manilal Dalal Vs. Controller of Estate Duty*, and *M. Ct. Muthiah and Another Vs. Controller of Estate Duty, Madras*, .

6. We have perused the judgments in *Bharat Kumar Manilal Dalal Vs. Controller of Estate Duty*, and *M. Ct. Muthiah and Another Vs. Controller of Estate Duty, Madras*, . In *M. Ct. Muthiah and Another Vs. Controller of Estate Duty, Madras*, the deceased had taken a personal accident policy. He died in an accident following the crash of the airliner in which he was travelling. On his death, the

insurance company paid the nominee, M, the sum of Rs. 2 lakhs, which was the benefit stipulated to be paid. The question was whether the sum of Rs. 2 lakhs had to be included in the estate as property passing on the death of the deceased for purposes of estate duty. The Central Board held that the insurance money of Rs. 2 lakhs was chargeable to estate duty u/s 6 of the Estate Duty Act, 1953, because under the terms of the policy, the deceased had the right to nominate a person to take the moneys on his death and had also the capacity to dispose of the amount by testamentary disposition. On a reference, the High Court held that the sum was includible in the estate of the deceased. On further appeal to the Supreme Court, it was held (headnote) :

" Held, reversing the decision of the High Court, that the insurance amount became property only on the happening of the contingency. That property arose on the death of the deceased in an accident during the subsistence of the policy. No property passed or could be deemed to pass on the death of the deceased. During the lifetime of the deceased, an interest was vested totally and irretrievably in the hands of the nominee. The death did not cause the property to change hands. The fact that the deceased nominated a beneficiary was not tantamount to a disposition of the property. In any event, the disposition vested in the nominee a right in the property. It did not pass on the death of the deceased. Therefore, the deceased was not competent to dispose of the moneys payable under the personal accident policy and the sum of Rs. 2 lakhs was not includible in the principal value of the estate of the deceased for purposes of estate duty."

7. It was further held as under (headnote) :

" An accident insurance policy cannot be construed as a movable property unlike a life insurance policy or an annuity because, as laid down in Section 2(15) of the Estate Duty Act, 1953, it is not only necessary for the person to have property or interest in property but that interest must be in regard to a movable property and his interest should also be capable of being ascertainable during his lifetime or at the time of his death in that movable property. Secondly, an accident insurance policy could not be construed as a property or an interest in property since the person who possessed it cannot also be said to have a contingent interest because there was every possibility of the accident policy getting extinguished or rendered worthless during his lifetime ; on the other hand, in the case of a life insurance policy, there was always a tangible continuing interest, only that the value of that interest might be subjected to change at the time of passing of the property.

Held also (though it was not necessary to decide), had it been necessary to decide, that the sum of Rs. 2 lakhs was a separate estate from the other estate of the deceased and could not be aggregated."

8. Similar was the view taken by the Supreme Court in *Bharat Kumar Manilal Dalal Vs. Controller of Estate Duty*, .

9. In the present case, the deceased had taken a double benefit insurance policy for a sum of Rs. 40,000. In the event of death by accident, double the assured amount of Rs. 40,000 was to be paid. Sat Pal had died in an accident and, therefore, under the policy his legal heirs were paid Rs. 40,000 because of the accident. To the extent of Rs. 40,000, the policy taken by Sat Pal, deceased, has to be taken as an accident insurance policy, which could not be construed as property which could be included in the principal value of the estate of the deceased for the purposes of the estate duty.

10. For the reasons stated above, the question referred to us is answered in the negative, i.e., in favour of the accountable person and against the Revenue. The Tribunal was not right in holding that the sum of Rs. 40,000 received by the legal heirs of the deceased from the Life Insurance Corporation under the double benefit scheme, was liable to estate duty, under the Act. No costs.