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(1992) 07 DEL CK 0002

In the Delhi High Court

Case No : WT Case No. 44 of 1991

Sharda Devi Singhania APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 24-07-1992

Acts Referred:
Land Acquisition Act, 1894 — Section 18

Citation : (1992) 65 TAXMAN 308

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

Bench : Division Bench

Advocate : R. Santhanam and Sanat Kumar, for the Appellant; Rajendra and R.N. Verma, 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 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 23-8-1982 and which was received on 5-4-1984 was includible in the net wealth of the assessee for the assessment year 1977-78 for which the relevant valuation date is 31-3-1977?

2. Whether, on the facts and in the circumstances of the case, the Hon''ble Appellate Tribunal Delhi Bench ''E'' was justified in rejecting the assessee''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?

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

2. As regards question No. 1, we find from the facts that after the land was

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acquired under the provisions of the Land Acquisition Act, 1894,a sum of Rs. 23,309 was offered as compensation by the Collector. 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 23-8-1982. The contention of the petitioner is that on the relevant valuation date, i.e., 31-3-1977 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 in the return as the amount was in dispute. He further submits that in the alternative, only a discounted value could be taken into account.

3. 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 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. In our opinion the sum of Rs. 23, 309 was clearly an asset of the assessee as on the valuation date. In fact before the assessing authority the assessee consented to this amount being added.

4. It is contended by the 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 v. ACED [1980] 122 ITR 21 1. In our opinion the said judgment of the Supreme Court has no application. 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 be one, that is in the affirmative. The learned counsel for the petitioner is unable to bring to our notice that any provision of law which deprives the petitioner of this amount of Rs. 23,309 after the acquisition, has become final.

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

6. 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. There will be no order as to costs.

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