
(1992) 03 DEL CK 0035
In the Delhi High Court
Case No : WTC No. 44 of 1991

Sharda 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

By The Court

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 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 23rd August, 1982 and which was received on 5th April, 1984 was includible in the net wealth of the assessed for the asst. yr. 1977-78 for which the relevant valuation date is 31st March, 1977 ?

2. Whether, on the facts and in the circumstances of the case, the Hon"ble 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 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. 23,305 was offered as compensation by the Collector. Reference under 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 23rd August, 1982. The contention of the petitioner is that on the relevant valuation date, i.e., 31st March, 1977 pertaining to the asst. yr. 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.

4. We are unable to agree with this contention. When the Collector makes an award, the amount which is offered can under no circumstances 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 because 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 under 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 under 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 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 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. 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. 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.

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.