(1987) 07 AP CK 0020

In the Andhra Pradesh High Court

Case No : Referred Case No. 193 of 1982

U.N.V. Pratap — APPELLANT

Vs

Commissioner of Wealth-tax — RESPONDENT

Date of Decision : 16-07-1987

Acts Referred:
Wealth Tax Act, 1957 — Section 7

Citation : (1987) 07 AP CK 0020

Hon'ble Judges : Y.V. Anjaneyulu, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Advocate : Chenna Basappa Desai, for the Appellant; M. Suryanarayana Murthy, for the Respondent

Judgement

B.P. Jeevan Reddy, J.—This reference is made u/s 27(1) of the Wealth-tax Act, 1957. The following two questions are referred to us:

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in fixing the value of the property known as "Nethaji Theatre" at Rs. 7,50,000 for each of the assessment years 1976-77 and 1977-78?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding, following the decision of the Karnataka High Court in V.C. Ramachandran Vs. Commissioner of Wealth Tax, Karnataka, , that it was not axiomatic that if by two different methods there are two different valuations arrived at for a property, the valuation which is more favourable to the assessee should necessarily be adopted ?"

2. The assessee is the owner of a cinema theatre called "Nethaji Theatre" at Kurnool. He was running the theatre in his personal capacity till April 16, 1975. He was incurring losses. So he leased out the theatre for a period of three years. The gross rental for the theatre including machinery, etc., was to be Rs. 4,000 per month in the first year and Rs. 5,000 per month in each of the remaining two years. The assessee valued the theatre at Rs. 6,64,000 for the assessment year

1976-77 and at Rs. 6,50,000 for the remaining two years. He adopted the rent as the basis for the purpose of capitalisation and arrived at the said value. The Wealth-tax Officer was, however, of the opinion that the valuation shown by the assessee is too low and relying upon a report of the Departmental valuer, he valued the same by the land and building method. The assessee appealed to the Appellate Assistant Commissioner who was of the view that it would be a more appropriate method if the figure arrived at by the land and building method and the figure arrived at on the basis of rental are aggregated and the average is taken as the value. Applying the formula, he arrived at the valuation of Rs. 8,09,000 for 1976-77 and Rs. 8,15,000 for 1977-78. On further appeal, the Tribunal accepted the method of valuation followed by the Appellate Assistant Commissioner but reduced the amount, whereupon the assessee has asked for and obtained this reference.

3. We are unable to see any question of law which has been wrongly decided by the Tribunal. It cannot be said that the procedure adopted by the Tribunal is contrary to any rule or provision of law nor can it be said to be vitiated by any misdirection in law. Accordingly, we answer question No. 1 referred to us in the affirmative, i.e., in favour of the Department and against the assessee.

4. So far as the second question is concerned, we agree with the Tribunal that it is not necessary that of the two valuations, the Department is always bound to adopt the lower valuation. The only obligation of the Department is to arrive at a valuation which is fair and reasonable. There is no rule that if two valuations arc possible, the Department is bound to adopt the one which is more favourable to the assessee. This was the view of the Karnataka High Court in V.C. Ramachandran Vs. Commissioner of Wealth Tax, Karnataka, . Accordingly, this question too is answered in the affirmative, i.e., in favour of the Department and against the assessee. No costs.