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(1992) 01 P&H CK 0155

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14082 of 1989

Vineet Khanna APPELLANT

Vs

Wealth-tax Officer RESPONDENT

Date of Decision : 14-01-1992

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1993) 199 ITR 660

Hon'ble Judges : B.C. Varma, C.J;Ashok Bhan, J

Bench : Division Bench

Advocate : J.S. Malik, for the Appellant; R.P. Sawhney, for the Respondent

Judgement

B.C. Varma, C.J.—This judgment shall also dispose of Civil Writ Petitions Nos. 6646, 6958 and 6959 of 1987 ; 4342, 4343 and 4344 of 1988 ; 14176, 14082 and 14083 of 1989 ; 5909, 5908 and 12667, 12695, 12696, 12697, 12739 and 3071 of 1990.

2. The petitioner held certain agricultural land. All that land was acquired. Subsequently, by due process of law under the Land Acquisition Act (hereinafter called " the Act "), the Collector offered certain amount as compensation, but this offer was not accepted by the petitioner who approached the court on a reference u/s 18 of the Act. The court (Additional District Judge) enhanced the compensation. The compensation was further enhanced by the High Court on appeal. There were three such awards.

3. The petitioner is an assessee under the Wealth-tax Act, 1957. The assessing authority, while assessing the petitioner to wealth-tax under the Wealth-tax Act, took these amounts into consideration as the property of the petitioner and assessed him accordingly. The petitioner filed an appeal against the assessment. That appeal is still pending.

4. While the appeal so preferred was pending adjudication, the petitioner approached this court through the present writ petition. The contention urged

was that the amount of compensation enhanced by the District Court as also by the High Court in appeals was not exigible to wealth-tax as it was not the petitioner''s wealth at the time of assessment in the given year.

5. Later, the petitioner also added a claim that the amount so received as compensation in lieu of agricultural land did not change its character and was, therefore, exempt from tax. Reliance was placed by the petitioner for this contention on a decision of the Bombay High Court in Manubhai A. Sheth and others Vs. N.D. Nirgudkar, 2nd Income Tax Officer, A-II Ward, Bombay and another, . We may also maintain that a similar contention was raised by certain persons who were liable to be assessed under the Income Tax Act, 1961. This court, vide judgment delivered on December 13, 1991, in Civil Writ Petition No. 10749 of 1991 (Tuhi Ram Vs. Land Acquisition Collector and Another, , negatived this contention and held that the amount received as compensation on acquisition of agricultural land ceases to be agricultural income but is wealth subject to wealth tax. We, therefore, need not detain ourselves on this point any further.

6. Learned counsel for the petitioner argued that the wealth acquired in the shape of enhanced compensation could not be assessed to wealth-tax as the wealth of the petitioner for the year in which the acquisition took place or any subsequent years. The contention is that such wealth could be assessed only in the year when it was made available and as, states the learned counsel, was acquired by the petitioner. This contention was seriously contested by counsel for the Department. Both counsel cited authorities before us to support their respective contentions. Finally, they rested their contentions on these authorities : Mrs. Khorshed Shapoor Chenai and Others Vs. Assistant Controller of Estate Duty, Andhra Pradesh and Others, , Commissioner of Income Tax, West Bengal-II, Calcutta Vs. Hindustan Housing and Land Development Trust Ltd., and P.V. Jacob Vs. Commissioner of Wealth-tax, . We refrain from expressing any opinion upon this question since the matter is pending before the appellate authority against the assessment made on the petitioner. The petitioner can raise all these contentions before the appellate authority and obtain a decision. If the petitioner does not succeed in persuading the appellate authority, he may have such recourse against that order as available to him under the law. We accordingly dispose of this writ petition with a direction to the appellate authority to dispose of the petitioner''s appeal in the light of the aforesaid discussions and after considering the authorities mentioned above. The writ petitions are disposed of without any order as to costs in these terms.

7. In Civil Writ Petition No. 3071 of 1990, learned counsel for the petitioner stated that he had raised additional objections before the assessing authority. If that is so, the assessing authority shall take those objections into consideration and decide the matter in accordance with law.

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