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In the Madras High Court

Case No : Tax Case No. 836 of 1984 (Reference No. 751 of 1984)

V.M. Rao (Individual) APPELLANT

Vs

Commissioner of Wealth-tax RESPONDENT

Date of Decision : 02-07-1996

Acts Referred:
Wealth Tax Act, 1957 — Section 2, 27(1), 5, 5(1)

Citation : (1998) 229 ITR 813

Hon'ble Judges : N.V. Balasubramanian, J;K.A. Thanikkachalam, J

Bench : Division Bench

Advocate : M. Uttam Reddy, for the Appellant; C.V. Rajan, for the Respondent

Judgement

K.A. Thanikkachalam, J.—At the instance of the assessee, the Tribunal referred the following question for the opinion of this court u/s 27(1) of the Wealth-tax Act, 1957 (hereinafter referred to as "the Act").

"In the facts and circumstances of the case was the Income Tax Appellant Tribunal right in holding that the compulsory deposits were includible in the net wealth and that market value should be taken to be the face value ?"

2. The assessee, an individual, has been making compulsory deposits under the Compulsory Deposit (income tax Payers) Act, 1974 read with the Compulsory Deposit (income tax Payers) Scheme, 1974. For the assessment year 1975-76, the valuation dated is March 31, 1975. The compulsory deposits made as on the valuation date amounted to Rs. 8,260. The assessee did not include the compulsory deposits in the net wealth returned but the Wealth-tax Officer included the same in the net wealth. On appeal, it was contended by the assessee that the deposit was not includible or if at all includible the market value was "nil" or at any rate, it was less than the face value of the deposits. However, the Appellate Assistant Commissioner, relying on his order in the assessee''s own case for the assessment year 1977-78, rejected the contentions and sustained the inclusions in the net wealth. Aggrieved, the assessee filed a

second appeal before the Tribunal. The Tribunal dismissed the appeal filed by the assessee, relying on the decision of the Tribunal in the case of V. M. Rao (HUF), wherein a similar issue was decided against the assessee.

3. We have heard both learned counsel appearing for the assessee as well as learned standing counsel appearing for the respondent. The only point for consideration is whether the compulsory deposits can be includible in the net wealth and that the market value should be taken to be the face value ?

4. By the Finance (No. 2) Act, 1980, section 7A was inserted with retrospective effect from April 1, 1975, which states as under :

"For the purposes of exemption u/s 5 of the Wealth-tax Act, 1957 (27 of 1957), the amount of compulsory deposit shall be deemed to be a deposit with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies."

A similar question came up for consideration before the Calcutta High Court in Smt. Sunanda Devi Singhania Vs. Commissioner of Wealth Tax, , wherein the Calcutta High Court has held that the "Tribunal was justified in law in holding that ''compulsory deposit'' should be taken into consideration for the purpose of computing the net wealth of the assessee for the assessment years 1979-80 and 1980-81. It was further held that if the deposit is an annuity and is, therefore, not includible in the net wealth, section 7A would be rendered redundant".

5. A similar issue also came up for consideration before the Bombay High Court in Commissioner of Wealth-tax Vs. Vidur V. Patel, , wherein the Bombay High Court had held that "under the Compulsory Deposit Scheme, 1963, the deposit in any year is repayable with interest thereon at any time after the expiry of five years from the end of the year in which the deposit had been made and that the amount standing to the credit of the assessee in the compulsory deposit scheme account falls within the expression ''property of every description movable or immovable'' used in section 2(e) of the Wealth-tax Act, 1957. Therefore, the amount standing to the credit of an assessee in the compulsory deposit account should be treated as an ''asset'' within the meaning of section 2(e) of the Wealth-tax Act, 1957. In yet another decision in Commissioner of Wealth-tax Vs. Master Asutosh K. Mahadevia, , the Bombay High Court took a similar view, holding that "the whole of the amount standing to the credit of the assessee in that account would, therefore, form part of his assets within the meaning of section 2(e) of the Wealth-tax Act, 1957, and the question of discounting the value thereof does not arise for purposes of inclusion in the net wealth of the assessee".

6. According to the facts arising in this case, the assessee has already got exemption u/s 5(1)(iv) of the Wealth-tax Act, 1957, to the extent of Rs. 1,50,000. Therefore, the Income Tax Officer included in the net wealth the compulsory deposit of Rs. 8,260 taking into consideration what is stated in section 2(e) of the Wealth-tax Act, 1957. Under such circumstances, we consider that there is no infirmity in the order passed by the Tribunal in including the

compulsory deposit of Rs. 8,260 in the net wealth of the assessee.

7. Accordingly, we answer the question referred to us in the affirmative and against the Department (sic). There will be no order as to costs.

