

Swaran Singh Kanwar Vs. Wealth-tax Officer

Swaran Singh Kanwar Vs. Wealth-tax Officer

SooperKanoon Citation : sooperkanoon.com/690025

Court : Delhi

Decided On : Nov-05-1979

Reported in : [1981]130ITR402(Delhi)

Judge : S. Ranganathan and; D.R. Khanna, JJ.

Acts : [Wealth Tax Act, 1957](#) - Sections 17 and 17(1); Wealth Tax Rules, 1957 - Rule 1D

Appeal No. : Civil Writ No. 968 of 1979

Appellant : Swaran Singh Kanwar

Respondent : Wealth-tax Officer

Advocate for Def. : B.N. Kirpal and ; M.L. Verma, Adv.

Advocate for Pet/Ap. : Anoop Sharma, Adv

Judgement :

S. Ranganathan, J.

1. These are three connected writ petitions and can be disposed of by a common judgment. The petitioners are kartas of HUFs and are assessed to wealth-tax. The net wealth of each of the petitioners consists of shares held in a number of companies, some of which are quoted on the stock exchange and some are not

quoted. The dispute in the present case arises out of common facts and it may be sufficient to set out the brief facts in C.W. No. 968/79 to illustrate the position.

2. For the assessment year 1970-71 (valuation dated March 31, 1970) the petitioner submitted a return of net wealth of a sum of Rs. 6,42,683. Among the assets owned by the petitioner were 145 equity shares of Raunaq & Co. Pvt. Ltd. The face value of each of these shares was Rs. 1,000 but since the said company was a private company and its shares were not quoted in any recognised stock exchange, the market value of its shares had to be computed under Rule 1D of the W.T. Rules, 1957. The petitioner accordingly valued these shares at Rs. 850 each. In support of this, valuation the balance-sheet of Raunaq & Co. Pvt. Ltd. was also filed before the WTO. On January 6, 1975, the W.T. assessment was completed by the WTO accepting the valuation, at Rs. 850 per share of these shares, made by the assessed.

3. On March 26, 1979, the WTO served a notice on the assessed under Section 17(1) of the W.T. Act. Though the notice did not indicate whether the proceedings were under Clause (a) or (b) of that sub-section, since the notice was issued after the expiry of four years from the end of the assessment year 1970-71, it is clear that the notice could be served only under Clause (a) of Section 17(1). It is in these circumstances . that the assessed has come up with this writ petition seeking to quash the notice issued under Section 17(1)(a) of the W.T. Act. The same position prevails in the other two writ petitions also.

4. After hearing Mr. Anoop Sharma, counsel for the petitioner, and Mr. B. N. Kirpal, counsel for the respondent we are of the opinion that the notices issued under Section 17(1)(a) were clearly without jurisdiction. It is common ground that the shares had to be valued under Rule 1D of the W.T. Rules which in the case of a company of the present kind is put down as follows :

'The market value of an unquoted equity share of any company, other than an investment company or a managing agency company, shall be determined as follows : The value of all the liabilities as shown in the balance-sheet of such company shall be deducted from the value of all its assets shown in that balance-sheet. The net amount so arrived at shall be divided by the total amount of its

paid-up equity share capital as shown in the balance-sheet. The resultant amount multiplied by the paid-up value of each equity share shall be the break-up value of each unquoted equity share. The market value of each such share shall be 85 per cent, of the break-up value so determined.'

5. The assessed had purported to value the shares accordingly to this rule. In support of his valuation he had also filed the balance-sheet of Raunaq & Co, Pvt. Ltd. It is true that the balance-sheet of this company dated June 5, 1970, also contained a note that while the face value of the equity shares held by Raunaq & Co, Pvt. Ltd. in Bharat Steel Tubes Ltd. was Rs. 10 per share, the aggregate market value of these shares was more than double the amount. It is perhaps on account of this circumstance, namely, that the market value of some of the shares held by Raunaq & Co. Pvt. Ltd. is more than the face value actually shown in the balance-sheet that the WTO has purported to take action for reassessing the petitioner. But the difficulty is that this fact was available in the balance-sheet of Raunaq & Co. Pvt. Ltd. which had been filed before the WTO. That apart, the original assessment order also shows that the WTO had occasion to consider the market value of the equity shares of Bharat Steel Tubes Ltd. itself because the petitioner himself held a certain amount of equity shares in the said company. In other words all the material facts necessary for evaluating the shares held by the assessed in Raunaq & Co. Pvt. Ltd. were available before the WTO at the time of the original assessment itself. There is no mention of any subsequent information which came into possession of the WTO. That apart, the assessed had fully and truly disclosed all material facts at the time of original assessment and, therefore, the proceedings under Section 17(1)(a) were clearly without jurisdiction.

6. In the above circumstances, we quash the notices issued under Section 17(1)(a) in each of the three matters. The writ petitions are allowed. There will be no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com