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Sucheta Singh Vs. Wto

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Court : Delhi

Decided On : Sep-04-2002

Reported in : [2004]134TAXMAN678(Delhi)

Appeal No. : Civil Writ Petition No. 921 of 1984 4 September 2002

Appellant : Sucheta Singh

Respondent : Wto

Advocate for Pet/Ap. : M.L. Varma, for the assessed,; R.D. Jolly,; R.C. Pandey

Judgement :

CWP No. 794-799, 916-921/84

Although nobody appears on behalf of the petitioner, upon perusal of the application, it appears that the question as to whether rule 1D of the Wealth Tax Rules is ultra virus of section 7(1) of the Wealth Tax Act has our opinion been covered by a judgment of the Supreme Court in the case of Bharat Hari Singhania v. CWT : [1994]207ITR1(SC) . The Apex Court has, regarding this aspect, observed as follows :

'We may first take up the question whether rule 1D is void for being inconsistent with the Act or for the reason that it is beyond the rulemaking authority conferred by the Act. Section 7(1) indeed defines the expression 'value of an asset'. It is 'the price which in the opinion of the Wealth Tax Officer it would fetch if sold in the

open market on the valuation date', but this is made expressly subject to the rules made in that behalf. No guidance is furnished by the Act to the rule-making authority except to say that the rule made must lead to ascertainment of the value of the asset (unquoted equity share) as defined in section 7. It is thus, left to the rule-making authority to prescribe an appropriate method for the purpose. Now, there may be several methods of valuing an asset or for that matter an unquoted equity share. The rule-making authority cannot obviously prescribe all of them together. It has to choose one of them which according to it is more appropriate. The rule-making authority has in this case chosen the break-up method, which is undoubtedly one of the recognised methods of valuing unquoted equity shares. Even if it is assumed that there was another method available which was more appropriate, still the method chosen cannot be faulted so long as the method chosen is one of the recognised methods, though less popular. One probable reason why the yield method or the dividend method was not adopted in the case of unquoted equity shares was that the bulk of these companies are private limited companies where the dividend declared does not represent the correct state of affairs and to estimate the probable yield is no simple exercise. The dividends in these companies is declared to suit the purposes of the persons controlling the companies. Maintainable profits rather than the dividend declared represent the correct index of the value of their shares. The break-up method based upon the balance-sheet of the company, incorporated in rule 1D, is a fairly simple one. Indeed, no serious objection can also be taken to this course since the basis of the rule is the balance-sheet of the company prepared by the company itself subject of course to certain modifications provided in Explanationn II.

We are not satisfied that the break-up method adopted by rule 1D does not lead to a proper determination of the market value of the unquoted shares. The argument to this effect, advanced by learned counsel for the assessed, is based upon the assumption /premises that the value determined by applying the yield method is the correct market value. We do not see any basis for this assumption. No empirical data is placed before us in support of this submission or assumption. It may be more advantageous to the assessed but that it is not saying the same thing that it alone represents the true market value. It cannot be stated as a principle that only the method that leads to the lesser value is the correct method.

The idea is to find out the true market value and not the value more favorable to the assessed. Accordingly, the contention that rule 1D is inconsistent with section 7(1) or that it travels beyond the purview of section 7 is rejected.'

2. The Apex Court further held in the above case that rule 1D is not mandatory in character. For the reasons aforementioned, we are of the opinion that there is no merit in the Writ Petition which is accordingly dismissed. We may, however observe that in view of the aforementioned decision of the Apex Court and since no body is present on behalf of the petitioner, there shall be no order as to cost.

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