

Mrs. Grace Collis and ors. Vs. Commissioner of Wealth-tax

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Court : Kerala

Decided On : Nov-24-1987

Reported in : (1988)68CTR(Ker)165; [1988]172ITR597(Ker)

Judge : T. Kochu Thommen and; K.P. Radhakrishna Menon, JJ.

Acts : [Wealth Tax Act, 1957](#); Wealth Tax Rules, 1957 - Rule 1D; [Income Tax Act, 1961](#)

Appeal No. : Income-tax Reference Nos. 369 to 391 of 1982

Appellant : Mrs. Grace Collis and ors.

Respondent : Commissioner of Wealth-tax

Advocate for Def. : P.K.R. Menon, Adv.

Advocate for Pet/Ap. : G. Sivarajan, Adv.

Judgement :

T. Kochu Thommen, J.

1. The following questions have been, at the instance of the assessee, referred to us by the Income-tax Appellate Tribunal, Cochin Bench :

'(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the valuation of the shares held by the assessee in Collis

Line P. Ltd. should be made by applying Rule 1D of the Wealth-tax Rules, 1957, for the assessment years 1967-68 to 1974-75?

(2) Whether the Tribunal was justified, for the assessment years 1967-68 to 1974-75, in holding that in applying Rule 1D of the Wealth-tax Rules, 1957, it is only the value of the ships that appear in the balance-sheet of the company that should be taken into account and not the written down value of these ships adopted for the purpose of income-tax assessment of Collis Line P. Ltd. ?'

2. Question No. (1) has to be, in the light of the decision of this court in CWT v. Mamman Varghese : [1983]139ITR351(Ker) , answered in the affirmative, that is, in favour of the Revenue and against the assessee. We do so.

3. As regards question No. (2), certain facts must be briefly stated. The late Mr. Collis held shares in Ambassador Steamships Pvt. Limited during the years 1967-68 to 1969-70, On amalgamation of that company with Collis Line Pvt. Ltd. during the previous year relevant to the assessment year 1970-71, Mr. Collis held shares in the successor company to the extent that he held shares in the predecessor company. His wife, Mrs. Collis, also held shares in the successor company. The assets of both the companies during the relevant years included ships. In computing the net wealth of the assesseees under the Wealth-tax Act, 1957, the Wealth-tax Officer, in respect of the unquoted equity shares held by each of the assesseees in the relevant company during the relevant years, adopted the method prescribed by Rule 1D of the Wealth-tax Rules, 1957, and determined the value of such shares with reference to the value of the assets held by the company as reduced by the depreciation relevant to those assets during the relevant years. There is, in principle, no dispute between the parties, as their submissions are now made at the bar by counsel on both sides, that the computation of the net wealth of the assesseees in cases where Rule 1D is applicable must be made with reference to the full value of the assets shown in the balance-sheet of the relevant company, as reduced by the rate of depreciation applicable to such assets under the Income-tax Act, 1961, and the Rules made thereunder. According to the assesseees, what the officer did was to take the full value, as shown in the balance-sheet, and reduce therefrom only the depreciation shown in the balance-sheet and

not the depreciation allowable in law. Counsel for the assesseees submits that the rate of depreciation shown in the balance-sheet is lower than the relevant rate recognised under the Income-tax Act and the Rules. Counsel for the Revenue, on the other hand, submits that the orders of the Wealth-tax Officer as well as the orders of the Tribunal show that what was deducted from the full value of the assets shown in the balance-sheet was the depreciation which is deductible under the Income-tax Act and the Rules. In short, the dispute is not about any principle of law or accountancy, but only about the arithmetic adopted by the concerned officer in working out Rule 1D of the Wealth-tax Rules.

4. It is no longer disputed by the assesseees that wherever Rule 1D is applicable, the correct rate recognised by the Income-tax Act and the Rules must be applied for the purpose of deducting depreciation from the value of the assets shown in the balance-sheet. For example, for the year 1970-71, the balance-sheet of Collis Line Private Limited shows on the assets side the fixed assets representing ships valued at Rs. 48,96,000 less depreciation written off so far at Rs. 37,000 and depreciation for the current year at Rs. 3,75,673. The total depreciation thus shown in the balance-sheet is Rs. 4,12,673. The reduced value of the assets representing ships, according to that balance-sheet, is thus Rs. 44,83,327. The assesseees' counsel contends that Rs. 44,83,327 was not the correct value of those assets, if their value was reduced by the correct rate of depreciation. Counsel says, the depreciation allowable under the Income-tax Act and the Rules in respect of the ships in question was, for the relevant year, more than Rs. 4,12,673 and the value of those assets which could be taken into account for the purpose of the Wealth-tax Act would, therefore, be less than Rs. 44,83,327. This is a matter of arithmetic.

5. The depreciation deductible from the value of the assets has to be computed strictly in accordance with the rates applicable under the Income-tax Act and the Rules. This is necessarily so, even when the assessee has, for whatever reason, shown in the balance-sheet depreciation which is not correctly computed in accordance with the statute. It is the statutory rate which must be applied for computation of the depreciation and deduction of the same from the value of the assets shown in the balance-sheet. The value of the assets is what is stated in the

balance-sheet, and not any other value, and it is from that value that deduction is made at the statutorily prescribed rate of depreciation.

6. What exactly are the correct rates of depreciation applicable for the assets in question for the relevant period must necessarily be computed by the concerned officer. We have no doubt that the assessee's grievance regarding the error, if any, will be considered by the officer and rectified in accordance with the principle stated by us.

7. In the light of what is stated above, we recast question No. (2) as follows :

'Whether the Tribunal was justified, for the assessment years 1967-68 to 1974-75, in holding that the net wealth of the assessee representing the unquoted shares in the relevant company during the relevant period must be computed with reference to the full value of the assets shown in the balance-sheet, as reduced by depreciation at the rates, allowable in terms of the Income-tax Act and the Rules made thereunder ?'

8. Having thus reframed the question, we answer it in principle in the affirmative. But the actual net wealth determinable under Rule 1D of the Wealth-tax Rules must be computed by the appropriate officer in accordance with the principle stated by us.

9. We direct the parties to bear their respective costs in these tax referred cases.

10. A copy of this judgment under the seal of the High Court and the signature of the Registrar shall be forwarded to the Income-tax Appellate Tribunal, Cochin Bench.