Cwt Vs. Bhanwarlal Gupta

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Court : Rajasthan

Decided On : Apr-17-2002

Reported in : (2002)175CTR(Raj)284

Appeal No. : WT Ref. No. 90 of 1995 17 April 2002

Appellant : Cwt

Respondent : Bhanwarlal Gupta

Advocate for Pet/Ap. : Sandeep Bhandawat, *for the Revenue*

Judgement :

N.N. Mathur, J.

The Tribunal, Jaipur, has made this reference under section 271(1) of the Wealth Tax Act, 1957 (hereinafter referred to as the 'Act'), seeking opinion of this court on the following questions :

'(i) holding in its order, dated 18-8-1993, that the right of the assessee of seeking application of rules contained in Schedule III of the Act was discretionary and such right could have been and was waived off by the applicants;

(ii) holding that the order, dated 18-8-1993, was an interlocutory order,

(iii) in entertaining on 3-1-1994, the additional ground relating to application of the rules contained in Schedule III of the Act, and

(iv) in allowing the additional ground after ignoring the order, dated 18-8-1993, and in requiring the Wealth Tax Officer to value the property in question as per provisions of rules in Schedule III of the Act.'

2. It appears that the assessee-respondents are the co-owners of the immovable property at C-92, Wazirpur Industrial Area, Delhi, is named and styled as Jindal General Manufacturing Co., Delhi. The value of the respective shares in the said property, was declared by them for various years. The Wealth Tax Officer did not accept the declaration made by the assessee for the various years and, therefore, he referred to the District Valuation Officer (hereinafter referred to as 'DVO'). The Wealth Tax Officer adopted the value of the shares of the assessee as per the report of the DVO, dated 6-3-1988. Before the Tribunal a submission was made that the valuation of the property in question be directed to be made as per the Rules contained in Schedule III of the Act which came into force with effect from 1-4-1989. A controversy was raised if the rules contained in Schedule III can be given retrospective effect, the Tribunal had decided the said issue in favour of the assessee. Accordingly, the Tribunal sent the case back to the Wealth Tax Officer to value the shares of the assessee in the property in question as per the amended rules contained in Schedule III of the Act.

3. The revenue submitted an application seeking a reference to this court. The Tribunal without assigning any reason has simply framed the questions and referred for the opinion of this court.

4. The controversy with respect to the same assessee and the same property namely, Jindal General Manufacturing Co. Delhi, situated at C-92, Wazirpur Industrial Area, Delhi, on the question as to whether the Tribunal, was justified and remanding the case to Wealth Tax Officer for the valuation of the property as per Schedule III which came into effect from 1-4-1989, has been answered by the Division Bench of this court in CIT v. Bhanwar Lal Gupta . This court has decided the controversy relying on a decision of the Apex Court in CWT v. Sharvan Kumar Swarup & Sons : 1995ECR425(SC) .

5. We do not think any referable question of law arises from the order of the Tribunal. Thus, we return the questions referred by the Tribunal unanswered.