

Cwt Vs. Smt. N. Kamala

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Court : Chennai

Decided On : Oct-07-2002

Reported in : [2003]131TAXMAN512(Mad)

Appeal No. : Tax Case Nos. 21 to 24 of 1998 7 October 2002

Appellant : Cwt

Respondent : Smt. N. Kamala

Advocate for Pet/Ap. : J. Naresh Kumar, *for the Revenue*

Judgement :

ORDER

K. Raviraja Pandian, J.

The question referred to at the instance of the revenue, for our consideration is, 'Whether on the facts and in the circumstances of the case and having regard to the provisions of rule 1D of the Wealth Tax Rules, the Tribunal's order holding that the order of the Commissioner under section 25(2) of the Wealth Tax Act was not erroneous or prejudicial to the interests of the revenue and that therefore the order was liable to be set aside is sustainable in law?'. The assessment years are 1981-82 to 1984-85.

2. The assessee' is an individual. She held certain unquoted equity shares in a firm. In the assessment of her wealth that was originally completed under section 16(3) of the Wealth Tax Act for the relevant assessment year, the assessee had evaluated those shares on yield basis, which was accepted by the assessing officer. However, the Commissioner held that the assessment so made was erroneous and prejudicial to the interest of the revenue. He also held that the unquoted equity shares should be evaluated as per the provisions of rule 1D of the Wealth Tax Rules, and directed the assessing officer to enhance the net wealth of the assessee for the assessment year, after evaluating the unquoted equity shares as per rule 1D of the Wealth Tax Rules. On appeal by the assessee, the Tribunal held that the method of evaluation under rule 1D would be applicable only to companies which are under liquidation or winding up and the method of evaluation to be adopted in the case of going concerns is the yield basis. The Tribunal accordingly set aside the order of the Commissioner, affirming that of the assessing officer. The present reference has been made, at the instance of the revenue, aggrieved against that order of the Tribunal.

3. Question similar to the one referred in this case has already been considered by the Apex Court and answered in favour of the revenue, in the case of *Bharat Hari Singhania v. CWT* : [1994]207ITR1(SC) wherein it was held that where there is a rule prescribing the manner in which a particular property has to be valued, the authorities under the Act have to follow it. Following that decision of the Apex Court we answer the question in favour of the revenue and against the assessee.