IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.3.2015

CORAM

THE HON'BLE MR.JUSTICE R.SUDHAKAR
AND
THE HON'BLE MR.JUSTICE R.KARUPPIAH

T.C.(A).Nos.1212 to 1218 of 2007

Commissioner of Wealth Tax
Madurai.
... Appellant in all the cases

Vs.

T.V.Sundaram Iyengar & Sons Ltd.
Madurai.
... Respondent in all the cases

PRAYER: Appeals under Section 27A of the Wealth Tax Act against the order of the Income Tax Appellate Tribunal, "D' Bench, Chennai, dated 27.11.2002 made in W.T.A.Nos.204 to 207/Mds/93, 447/Mds/1994, 85/Mds/1996, and 86/Mds/1996 respectively against th order of the commissioner of Income Tax (Appeals-D)

(i) dated 26/11/92 and made in Appeal Nos.39/98-90, 28/90-91, 149/91-93, 150/91-92 and 100/92-93.
(ii) dated 30/11/92 and made in WTA No.125/92-93.
(iii) dated 13/8/93 and made in WTA No.26/93-94.
(iv) dated 28/1/94 and made in WTA.No.168/93-94.
(v) dated 24/11/95 and made in WTA Nos.100/95-96 and 101/95-96 respectively,

Against the order of the Deputy Commissioner of Wealth Tax, Special Range I, Madurai.

(i) dated 30/3/89 for the A.Y. 1984-85
(ii) dated 26/3/90 for the A.Y. 1985-86
(iii) dated 19/3/91 for the A.Y. 1986-87
(iv) dated 19/3/91 for the A.Y. 1987-88
(v) dated 10/3/92 for the A.Y. 1988-89
(vi) dated 30/3/92 for the A.Y. 1989-1990
(vii) dated 4/2/93 for the A.Y. 1990-1991
(viii) dated 8/10/93 for the A.Y. 1991-1992
(ix) dated 21/4/95 for the A.Y. 1993-1994 and
(x) dated 30/5/95 for the A.Y. 1994-1995 respectively.

For Appellant : Mr.M.Swaminathan
in all the appeals Standing Counsel

For Respondent : Mr.S.A.Balasubramanian
in all the appeals

J U D G M E N T

(Delivered by R.SUDHAKAR, J.)

These appeals are filed by the Revenue under Section 27A of the Wealth Tax Act against the order of the Income Tax Appellate Tribunal, "D' Bench, Chennai, dated 27.11.2002 made in W.T.A.Nos.204 to 207/Mds/93, 447/Mds/1994, 85/Mds/1996, and 86/Mds/1996 and the same were admitted on the following questions of law:

(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the valuation of the assessee company's immovable property should be as per Rule 1BB/Schedule III of the Wealth Tax Rules, although the difference between unbuilt area and specified area exceeded 20% of aggregate area?

(ii) Whether on the facts and circumstances of the case, the Tribunal was right in holding that premises leased out and used by the lessee as factory godown, etc., is not subject to wealth tax?"

2. Even though these appeals were admitted the above questions of law, the learned counsel appearing for the Revenue fairly concedes that in these appeals the only question of law raised by the department is:

"Whether in the facts and circumstances of the case, the Tribunal was right in holding that the written down value of the cars and jeeps owned by the assessee should be taken as the market value for the purposes of wealth tax?"

That apart, he submits that the pleadings and grounds raised in the affidavits filed in support of these appeals relate only to the above sole question of law and there is no pleading or ground raised in relation to the two substantial questions of law on which these appeals are admitted.

3. In view of the said submission made by the learned Standing Counsel for the Revenue, the only question that needs consideration is "Whether in the facts and circumstances of the case, the Tribunal was right in holding that the written down value of the cars and jeeps owned by the assessee should be taken as the market value for the purposes of wealth tax?"

4. The learned counsel on either side submit that in assessee's own case for the assessment years 1988-89 to 1991-1992, this Court in Commissioner of Wealth Tax v. T.V.Sundaram Iyengar and Sons Ltd., (2007) 289 ITR 284 (Mad.) has answered the very same question of law in favour of the assessee and against the Revenue.

5. In Commissioner of Wealth Tax v. T.V.Sundaram Iyengar and Sons Ltd., (2007) 289 ITR 284 (Mad.), this Court while answering the very same question of law, held as under:

> "5. We heard the arguments. In this case, what is shown in the books was offered for wealth-tax assessments. The Assessing Officer had merely adopted the insured value of the vehicles as the market value. The Assessing Officer ought to have determined the market value for each vehicle, instead of merely adopting the value which was offered to the insurance company by the assessee. The Assessing Officer did not do anything except adopting the value offered to the insurance company, as the market value. As to what should be the value of the asset is essentially a question of fact, especially when the Tribunal had adopted the written down value as the market value in the earlier assessment years in the assessee's own case. No material is produced before us by the Revenue to show that the written down value does not represent the market value of the vehicle.
>
> 6. In view of the foregoing conclusions, we find no error in the order of the Income-tax Appellate Tribunal and hence no substantial question of law arises for consideration of this court. Hence, the above tax cases are dismissed."
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> (emphasis supplied)

6. Even in the case on hand, there is no material produced before us by the Revenue to show that the written down value does not represent the market value of the vehicles. Therefore, the said decision applies to the facts of the present case on all fours.

7. In such view of the matter, these appeals are dismissed answering the sole substantial question of law against the Revenue and in favour of the assessee. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Assistant Registrar,
   Income Tax Appellate Tribunal
   Chennai Bench "D", Chennai.

2. The Commissioner of Income Tax (Appeals) - I
   Madurai.

3. The Deputy Commissioner of Wealth Tax
   Special Range I, Madurai.

4. The Assistant Registrar,
   Income Tax Appellate Tribunal,
   Rajaji Bhavan, IV Floor,
   Besant Nagar, Chennai.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.15465

T.C.(A).Nos.1212 to 1218 of 2007

KSJ(CO)
CA(06/04/2015)