

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 30.11.2015

+ WTA 1/2015

COMMISSIONER OF INCOME TAX - 7

..... Appellant

versus

PROVESTMENT SECURITIES PVT. LTD.

..... Respondent

Advocates who appeared in this case:

For the Appellant : Ms Suruchi Aggarwal, Senior Standing Counsel
with Ms Lakshmi Gurung, Junior Standing
Counsel.

For the Respondent : Mr S. Krishnan.

AND

+ WTA 2/2015

COMMISSIONER OF INCOME TAX - 7

..... Appellant

versus

PROVESTMENT SECURITIES PVT. LTD.

..... Respondent

Advocates who appeared in this case:

For the Appellant : Ms Suruchi Aggarwal, Senior Standing Counsel
with Ms Lakshmi Gurung, Junior Standing
Counsel.

For the Respondent : Mr S. Krishnan.

CORAM:

DR. JUSTICE S.MURALIDHAR

MR. JUSTICE VIBHU BAKHRU

JUDGEMENT

VIBHU BAKHRU, J

1. The Revenue has filed the present appeals under Section 27A of the Wealth Tax Act, 1957 (hereafter 'the Act') calling into question a common order dated 20th June, 2014 passed by the Income Tax Appellate Tribunal (hereafter 'Tribunal') in WTA No. 21/Del/2013 and 22/Del/2013 relating to the assessment years (hereafter 'AY') 2006-07 and 2007-08 respectively. The said appeals were filed by the Revenue challenging two orders both dated 30th April, 2013, passed by the Commissioner of Wealth Tax (Appeals) [hereafter 'CWT(A)'] in Appeal no. 395/CWT(A)XVII/Del/2011-12 and 396/CWT(A)XVII/Del/2011-12, whereby, the appeals filed by the Assessee against the assessment orders, both dated 30th December, 2011, passed by the Assessing Officer (hereafter 'AO') for the AY 2006-07 and 2007-08 were allowed.

2. The principal controversy in the present case involves a Lamborghini Car bearing Registration No. PB-09G-0052, which during the course of the Income Tax assessment proceedings for AY 2006-07, was held to be owned by the Assessee. The said vehicle was held to be valued at Rs. 1,40,00,000/- by the Commissioner of Income Tax (Appeals) [hereafter 'CIT(A)']. Since

the Assessee had not filed its Wealth Tax Return for the AY 2006-07 and 2007-08, notices u/s 17 were issued to the Assessee on 10th May 2010. Additional notices u/s 16(4) were issued on 15th November 2010 and 6th December 2010. In response to the said notices, the Assessee filed a letter dated 13th December 2010 along with a copy of the Balance Sheet for the year ending 31st March, 2006 claiming that the Lamborghini Car was not owned by the Assessee company during the AY 2006-07, but was taken in AY 2008-09 and the wealth tax in respect of the said car had been paid by the company in AY 2008-09. The Assessee subsequently filed its Wealth Tax Return on 14th December 2011 declaring a taxable wealth of Rs. 3,33,800/- and Rs. 2,47,396/- for the AY 2006-07 and 2007-08 respectively.

3. The AO relied upon the Income Tax proceedings for the AY 2006-07, whereby, an addition of Rs. 1,40,00,000/- was made by the CIT(A) to the income of the Assessee Company u/s 69 of the Income Tax Act as unexplained investment in the said vehicle. The AO thus held that as the Assessee Company had been found to be the owner of the Lamborghini Car worth Rs. 1,40,00,000/- as on 31st March, 2006 and 31st March, 2007, its value had to be included in the taxable wealth of the Assessee u/s 2(ea) of

the Act. Interest was also charged u/s 17B and penalty proceedings were initiated u/s 18(1)(c) of the Act.

4. The Assessee filed two appeals before the CWT(A) against the assessment orders for the AY 2006-07 and 2007-08. The CWT(A) relying upon the order of the Income Tax Appellate Tribunal (hereafter 'ITAT') in the Assessee's Appeal in ITA No.2485/Del/2010 dated 13th July 2012, deleted the addition of Rs. 1,40,00,000/- made by the AO u/s 2(ea) of the Wealth Tax Act since this addition was made only on the basis of the Income Tax assessment.

5. The Revenue on being aggrieved by the orders of the CWT(A), both dated 30th April, 2013, filed two appeals with the ITAT for the AY 2006-07 and 2007-08. The ITAT also followed the decision in ITA No.2485/2010 dated 13th July 2012 in the Assessee's own case and held that CWT(A) was justified in excluding the value of the Lamborghini Car from the total taxable net wealth of the Assessee and, accordingly, dismissed the Revenue's appeals.

6. The common order of the ITAT dated 20th June, 2014, in WTA No.21/Del/2013 and 22/Del/2013 is impugned in the present appeals before

this Court. By an order dated 11th February, 2015, this Court framed the following substantial question of law:

“Did the Income Tax Appellate Tribunal (ITAT) fall into error in holding that the assessee who is not owner of the Lamborghini Car since it did not acquire the asset and was therefore not liable under the Wealth Tax Act in both the appeals.”

7. The Revenue had also appealed against the decision of the ITAT dated 13th July, 2012 in ITA No.2485/2010 (being ITA No. 86 of 2013). The said appeal was admitted and, *inter alia*, the following question was framed:

“1. Whether the Income Tax Appellate Tribunal has rightly interpreted Section 69 of the Income Tax Act, 1961 and was right in deleting the addition of Rs.1,37,07,306/ made by the assessing officer on account of undisclosed investment in Lamborghini Car?

8. Since the central controversies involved in ITA 86/2013 and the present appeals were similar, these appeals were heard together with ITA 86/2013. At the outset, the learned counsel for the parties submitted that a decision in ITA 86/2013 would also determine the question framed in these appeals.

9. By a separate judgment delivered today, the question of law framed in ITA 86/2013 has been answered in favour of the Assessee and against the Revenue. In view of the same, the question of law framed in the present appeals is answered in the negative and in favour of the Assessee and against the Revenue.

10. The appeals are, accordingly, dismissed. Parties are left to bear their own costs.

VIBHU BAKHRU, J

S. MURALIDHAR, J

NOVEMBER 30, 2015
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