THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

W.T.A. No.2 of 2001

JUDGMENT: *(Per Hon'ble Sri Justice Sanjay Kumar)*

This appeal under Section 27 A of the Wealth Tax Act, 1957 (for short 'the Act') is directed against the order dated 18.08.2000 passed by the Income Tax Appellate Tribunal, Hyderabad 'B' Bench, in W.T.A.No.231/Hyd/98 pertaining to the Assessment Year 1988-89.

The appellant-assessee raised the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the ITAT was right in holding that there was concealment of wealth in the Appellant's case for the assessment year 1988-89 in the matter of valuation of house property even though the Assessing Officer adopted Schedule III of the Wealth Tax Act for evaluation of the same when in law the Schedule III was applicable only from the assessment year 1989-90.
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> (ii) Whether on the facts and in the circumstances of the case the ITAT was right in holding that the appellant could not discharge the onus cast upon him as per Explanation 4 to Section 18(1)(c) of the Act whereby the presumption of concealment of wealth stands disapproved."

Heard Sri Sravan Kumar, learned counsel for the appellant-assessee, and Sri B. Narasimha Sarma, learned counsel for the Revenue.

W.T.A.No.231/Hyd/98 arose out of the order dated 7.8.1998 of the Commissioner of Wealth Tax (Appeals) IV, Hyderabad, confirming the penalty order passed by the Assessing Officer, the Assistant Commissioner of Wealth Tax, Circle 5 (1), Hyderabad, under Section 18(1)(c) of the Act, whereby the appellant-assessee was found to have undervalued his property warranting levy of the minimum penalty of Rs.81,260/-.

Perusal of the penalty order dated 16.10.1996 passed by the Assistant Commissioner of Wealth Tax under Section 18(1)(c) of the Act reflects that against the primary order of valuation passed by the Assessing Officer, which formed the basis and source of the penalty proceedings, an appeal was filed and the Commissioner of Income Tax (Appeals) *vide* Order No.ITA.48/CIT(A)-II/94-95 dated 28.03.1996 confirmed the valuation of the property. There is no indication of any further appeal having been filed before the Tribunal as against this order of the Commissioner.

The first substantial question of law, which is sought to be urged before us, is with regard to the applicability of Schedule III, which was introduced in the statute w.e.f 01.04.1989, in the context of such valuation.

Sri Sravan Kumar, learned counsel, would contend that this Schedule would have application only from the Assessment Year 1989-90 and therefore ought not to have been applied to the Assessment Year 1988-89, as has been done by the Assessing Officer. However, as the valuation effected on the basis of Schedule III in the primary order has already been confirmed in appeal by the Commissioner and has attained finality, it is not open to the appellant/assessee to bank upon this ground in the context of the penalty proceedings. A different view cannot be taken at this stage. This question of law is therefore not available to the appellant-assessee in the light of the aforestated facts.

The other question of law is more or less on factual aspects and relates to whether the Tribunal was correct in holding that the appellant-assessee is liable for penalty in terms of Section 18 (1)(c) of the Act as to the under valuation of the property. The Assessing Officer, the Commissioner and the Tribunal have dealt with this aspect of the matter at length and, being the final fact finding authority, the findings of the Tribunal would not warrant interference unless the ground of perversity is alleged and made out. However, we find that no such ground has been taken in the present case.

On the above analysis, we find no substantial question of law arising for consideration.

The appeal is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR, J

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ANIS, J

Date: 17.11.2016
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