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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 14.03.2018

+ **WTA 8/2017 & CM APPL. 41757/2017**

THE PR. COMMISSIONER OF WEALTH TAX
CENTRAL-3

..... Petitioner

Through: Mr.Ruchir Bhatia and Mr.Puneet Rao,
Adv.

versus

SMT. PADMA DALMIA

..... Respondent

Through: Mr.Simran Mehta, Adv.

WTA 9/2017 & CM APPL. 41758/2017

THE PR. COMMISSIONER OF WEALTH TAX
CENTRAL-3

..... Petitioner

Through: Mr.Ruchir Bhatia and Mr.Puneet Rao,
Adv.

versus

SH. RAGHU HARI DALMIA

..... Respondent

Through: Mr.Simran Mehta, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

HON'BLE MR. JUSTICE S. RAVINDRA BHAT (ORAL)

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The question of law involved in this case is as follows:

“Whether the ld. ITAT was right in directing the Assessing Officer to disregard the recent valuation report and adopt old valuation report inspite of the fact that current valuation of the assets was available with the assessee at the time of filing of Wealth Tax return?”

2. The assessees were subjected to search under Section 132 of the Income Tax Act, 1961 on 20.01.2012. Based upon the valuation of their assets, which included jewellery, the Wealth Tax Officer (WTO) made additions in excess of ₹88 lacs which resulted in wealth tax liability. The challenge to the Commissioner of Wealth Tax was unsuccessful. Consequently, they appealed to the Tribunal which granted relief, based upon a circular issued on 15.03.1993.

3. It is urged on behalf of the Revenue that the circular in this case merely allows the assessee to use the report of the registered valuer obtained for one assessment year to assess the value of jewellery for subsequent four assessment years but under no circumstances it undermines the power of the Wealth Tax Officer to rely upon the later valuation report. The assessees resist the appeal; apart from setting up the circular (dated 15.03.1993). They rely upon the combined effect of Rules 18 & 19 to urge that the valuation report once adopted is deemed to be in effect for four years and that in the present case, the time for filing the fresh valuation report, had not yet arisen. The occasion for a fresh valuation occurred on account of search which resulted in a separate valuation. Ld. Counsel also relied upon Rule 19A to highlight that the value of assets other than gold and jewellery, did not require fresh annual revisiting.

4. Rules 18 & 19 of the Third Schedule to the Wealth Tax Rules (which form the mechanism for valuation of wealth, in terms of Section 7 of the Wealth Tax Act), read as follows:

“18. Valuation of jewellery. - (1) The value of the jewellery shall be estimated to be the price which it would fetch if sold in the open market on the valuation date (hereafter in this rule referred to as fair market value).

(2) The return of net wealth furnished by the assessee shall be supported by, -

(i) a statement in the prescribed form, where the value of the jewellery on the valuation date does not exceed rupees five lakhs;

(ii) a report of a registered valuer in the prescribed form, where the value of the jewellery on the valuation date exceeds rupees five lakhs.

(3) Notwithstanding anything mentioned in sub-rule (2), the Assessing Officer may, if he is of opinion, that the value of the jewellery declared in the return

(a) is less than its fair market value by such percentage or such amount as is prescribed under sub-clause (i) of clause (b) of sub-section (1) of section 16 A;

(b) is less than its fair market value as referred to in clause (a) of sub-section (a) of section 16A,

he may refer the valuation of such jewellery to a Valuation Officer under sub-section (1) of the said section and the value of such jewellery shall be the fair market value as estimated by the Valuation Officer]

19. Adjustment in value of jewellery for subsequent assessment years. - *The value of any jewellery determined in accordance with [sub-rule (3) of] rule 18 for any assessment year (hereinafter referred to as the first assessment shall be taken to be the value of such jewellery for the subsequent four assessment years, subject to the following adjustments, namely:*

(a) where the jewellery includes gold or silver or any alloy containing gold or silver, the value of such gold or silver or such alloy as on the valuation date relevant to the concerned subsequent assessment year shall be substituted for the value of such gold or silver or alloy on the valuation date relevant to the first assessment year;

(b) where any jewellery or part of jewellery is sold or otherwise disposed of by the assessee, or any jewellery or part of jewellery is acquired by him, on or before the valuation date relevant to the concerned subsequent year, the value of the jewellery determined for the first assessment year shall be reduced or increased, as the case may be, and the value as so reduced or increased shall be the value of the jewellery for such subsequent assessment year."

5. It is evident that a conjoint reading of the Rules require valuation of all assets; furthermore, the valuation operates not on a year to year basis but for a four year cycle. The only exception made out is that where jewellery includes gold or silver or any other alloy, the valuation of gold has to be undertaken annually. Furthermore, if the jewellery or any part of such asset is sold or acquired before valuation date (i.e. within the four year period) such value has to be reduced or increased as the case may be and has to be reflected in the subsequent assessment year.

6. It is evident from the facts of the present case that the search was an event which *per se* could not have compelled the assessee to go in for fresh valuation, unless there was a compulsion in law to do so. In these circumstances, the assessee acted within their rights in relying upon the prevailing valuation, which ended on 31.03.2012.

7. For the above reasons, the question of law framed is answered in favour of the assessee and against the appellant/revenue. The appeals are dismissed. All the pending applications also stand disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MARCH 14, 2018

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