

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WEALTH TAX APPEAL NO.899 OF 2016
WITH
WEALTH TAX APPEAL NO.927 OF 2016**

The Pr.Commissioner of Wealth Tax-1 ... Appellant

V/s.

Hemant Vitthal Waje ... Respondent

Mr.Sham Walve for the Appellant.

**CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : JANUARY 14, 2019.**

P.C.:-

1. These appeals are filed by the revenue and arise out of the common judgment of the Income Tax Appellate Tribunal. We may notice facts from Income Tax Appeal No.927 of 2016.

2. Respondent-assessee is an individual. He had filed his wealth tax return for the assessment year 2007-08. In such return the assessee had declared his total wealth of Rs.64.65 lakhs which comprised of an immovable property with the residential bungalow situated thereon on adjoining plot. The assessee had

worked out the value of this property at Rs.56.93 lakhs (rounded off) as on 31st March, 2006. This was done by taking a valuation of the property as estimated by the Valuer as on 1st April, 1981 and thereafter, adjusting it for indexation.

3. The Wealth Tax Officer disputed this valuation and assessed the value of the property by applying the rate of Rs.20,000/- per sq. meters. Likewise, the Assessing Officer also reworked the valuation of the common building owned by the assessee. The assessee carried the matter in appeal before the Commissioner of Wealth Tax (Appeals). Commissioner reduced the valuation by excepting the rate of the property at Rs.5,500/- per sq. meters which was on the basis of registered sale deed in respect of the similar property in the same or sold around the same time. In further appeal the Tribunal gave no further relief to the assessee and the wealth tax assessment thus achieved finality. On the basis of such additional valuation Wealth Tax Officer imposed penalty. The assessee carried the matter in appeal before the Commissioner who gave partial relief. Tribunal deleted the entire penalty. We may note that, the assessee also owned another

immovable property in the nature of commercial building with respect to valuation of which also, the Wealth Tax Officer had objected. However, the Commissioner of Wealth Tax (A) deleted such addition which the Tribunal had confirmed.

4. Having heard the learned counsel for the Tribunal and having perused the documents on record, we notice that the assessee had declared the two immovable properties in the wealth tax return has also offered valuation of such properties. This was based on the valuation report of the registered Valuer estimating the value of the property as on 1st April, 1981. The Wealth Tax Officer did not accept this valuation which was partially sustained in appeal. The Commissioner adopted the standards of the sale of the property in the near vicinity at the same time. It was under such circumstances that the Tribunal did not think it fit to confirm the penalty. We are broadly in agreement in view of the Tribunal. The Tribunal had referred to and relied upon three decisions of the High Courts to which we may refer presently.

5. In case of **CWT Vs. V. Vatsala**¹ division bench of Madras High Court noted that the assessee had filed the return of income for the wealth tax declaring the value of the property based on earlier assessments. There was subsequent agreement to sell the property at higher value despite which the High Court held that the assessee could not be deemed to have furnished inaccurate particulars.

6. In case of **CWT Vs. Sanghi Bros.(India) Ltd.**² division bench of Madhya Pradesh High Court noted that the assessee had disclosed a certain property in return and valued it according to its own method. The addition was made on account of difference between valuation of the assessee and of that by the revenue. Under such circumstances, the Court was of the opinion that there was no concealment of wealth and therefore, penalty could not have been imposed.

7. In case of **Shakuntala Khosla Vs. CWT & anr.**³ the learned Single Judge of Punjab and Haryana High Court considered a

1 (1989) 177 ITR 120 (Mad)

2 (2008) 301 ITR 129 (MP)

3 (1985) 156 ITR 252 (P&H)

situation where the assessee had declared the value of the property on the basis of certificate of the Government Approved Valuer in the earlier years. The Wealth Tax Officer did not accept such valuation and made modification. The Court held that this was not the case of concealment of wealth and the penalty therefore, cannot be imposed.

8. Under the circumstances, both the wealth tax appeals are dismissed.

(M.S.SANKLECHA,J.)

(AKIL KURESHI,J.)