

## **Assistant Commissioner of Income Tax Vs Late Shrimant F.P. Gaekwad through L/H Smt. Mrinalini Puar**

**Court:** Gujarat High Court

**Date of Decision:** Sept. 2, 2008

**Acts Referred:** Income Tax Act, 1922 &" Section 24B(2)  
Wealth Tax Act, 1957 &" Section 14, 14(1), 15, 15B, 17

**Citation:** (2009) 221 CTR 423 : (2009) 313 ITR 192

**Hon'ble Judges:** K.A. Puj, J; Bankim N. Mehta, J

**Bench:** Division Bench

**Advocate:** K.M. Parikh, for the Appellant; Manish J. Shah, for the Respondent

**Final Decision:** Dismissed

### **Judgement**

K.A. Puj, J.

All these five tax appeals are filed by the Revenue u/s 27A of the WT Act, 1957, raising the substantial question of law for

determination and consideration of this Court. In tax appeal No. 598 of 2008 following substantial question of law is raised:

Whether the Tribunal was right in law and on facts in upholding the order of the CWT(A) whereby deleting the penalty levied u/s 18(1)(c) of the

WT Act, without considering the provisions of Section 19(1) of the WT Act?

2. The Tribunal has passed the common order dealing with the penalties under Sections 15B, 18(1)(a) and 18(1)(c) of the WT Act, 1957. The

assessment years involved are asst. yrs. 1968-69, 1970-71, 1971-72, 1983-84 and 1984-85.

3. Tax Appeal No. 598 of 2008 is in respect of penalty u/s 18(1)(c) for the asst. yr. 1984-85. Tax appeal No. 599 of 2008 is in respect of

penalty u/s 18(1)(c) for the asst. yr. 1983-84. Tax appeal No. 600 of 2008 is in respect of penalty u/s 18(1)(a) for the asst. yr. 1968-69. Tax

appeal No. 601 of 2008 is in respect of penalty u/s 15B for the asst. yr. 1970-71 and Tax appeal No. 602 of 2008 is in respect of penalty u/s

15B for the asst. yr. 1971-72. The question is identical in all these tax appeals except change of section. Since the common issue is involved in all

these tax appeals, the same are being disposed of by this common judgment and order.

4. The brief facts of the case are that the deceased assessee, namely, late Shrimant F.P. Gaekwad, had furnished the returns of wealth during his

lifetime declaring his net wealth for the relevant assessment years as under. Assessed wealth is also indicated below:

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Asst. yr. New wealth as per return Assessed wealth

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1970-71 Rs. 4,04,85,145 (original) Rs. 6,97,08,015  
Rs. 3,97,88,205 (revised)

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1971-72 Rs. 6,06,76,472 (original) Rs. 6,96,23,293  
Rs. 5,50,62,100 (revised)

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1968-69 Rs. 4,18,37,550 (original) Rs. 5,99,55,822  
Rs. 4,10,19,350 (revised)

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1983-84 Rs. 2,09,48,900 (original) Rs. 10,89,65,050  
Rs. 2,18,42,900 (revised)

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1984-85 Rs. 1,65,46,800 (original) Rs. 10,91,95,668  
Rs. 1,65,46,756 (revised)

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5. At the time of assessments and during lifetime of deceased assessee, penalty proceedings were initiated under Sections 18(1)(a), 18(1)(c) and 15B of the WT Act, 1957.

6. Before the penalty proceedings could be completed, the assessee expired in 1988 and the estate devolved upon Mahararii Shantadevi

Gaekwad, who has passed away. Thereafter, Smt. Mrinalini Devi Puar became legal heir of late Shrimant F.P. Gaekwad. Subsequently, the

penalties were imposed on the legal heir of the original assessee, late Maharaja Shrimant F.P. Gaekwad i.e. Smt. Mrinalini Devi Puar. The AO

vide his order dt. 29th Aug., 2003 passed penalty orders under Sections 18(1)(a), 18(1)(c) and 15B of the WT Act, 1957.

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Sr. No. Penalty Amount of Asst. yr.

u/s penalty (Rs.)

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1 18(1)(c) 13,23,503 1984-85

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2 18(1)(c) 11,07,357 1983-84

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3 18(1)(a) 1,44,509 1968-69

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4 15B 58,282 1970-71

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5 15B 1,35,105 1971-72

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7. Being aggrieved by the said orders, the legal representative of the deceased assessee challenged the said orders before the CWT(A). The issue

was at length discussed by the CWT and considering various authorities cited before him, the CWT has taken the view that since the original

assessee, late Maharaja Shrimant Fatehsingh Gaekwad had passed away long back in the year 1988 and the estate of the deceased assessee was

thereby devolved upon late Maharani Shantadevi Gaekwad (mother of the original assessee) who also passed away and now the same is

contested in Civil Court to manage the estate of late Maharani Shantadevi Gaekwad by Shrimati Mrinalini Paur (sister of the original assessee and

daughter of late Shrimati Maharani Shantadevi Gaekwad), the levy of penalty is not justified and the penalty for all the five years stand deleted. The

CWT(A) had taken the view that since Section 15B and Section 18 are not included in Section 19(3), penalties cannot be levied on the legal

representative of the deceased assessee.

8. Being aggrieved by the order of the learned CWT(A), the Revenue took up the matter before the Tribunal and the Tribunal vide its order dt.

30th April, 2007 confirmed the order of learned CWT(A) and dismissed the appeal filed by the Revenue. After careful consideration of the rival

submissions, facts and circumstances of the case and the decision relied upon before the CWT(A) and in view of the legal provisions and

authorities of various High Courts referred to in the order of the CWT(A) the Tribunal did not find any infirmity in the order of the CWT(A) and

hence the said order was confirmed.

9. It is this order of the Tribunal which gives rise to the present tax appeals.

10. Mr. K.M. Parikh, learned standing counsel appearing for the Revenue, has submitted that Section 19(1) clearly states that, where a person

dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which

the estate is capable of meeting the charge, the wealth-tax assessed as payable by such person, or any sum, which would have been payable by

him under this Act if he had not died. He has, therefore, submitted that Section 19(1) empowers the AO to recover the amount of penalty levied

on the legal representative and the legal representative is liable to pay penalty out of the estate of deceased assessee. He has further referred to the

provisions contained in Section 19A of the WT Act. He has further submitted that "or any sum" requires interpretation by this Court and it gives

rise to the substantial question of law and hence, the Court should formulate the substantial question of law as proposed by the Revenue.

11. He relied on the decision of Patna High Court in the case of Rani H.R. Laxmi (Estate) (Late) (through B.K. Singh) Vs. Commissioner of

Wealth Tax, wherein it is held that a bare perusal of Sub-section (1) of Section 14 of the WT Act, 1957, makes it clear that under the said sub-

section, a person is assessable to payment of wealth-tax on his own net wealth. It further lays down that a person is liable to pay wealth-tax on the

net wealth of any other person in respect of which he is assessable under this Act. An executor is liable to pay wealth-tax in relation to the net

wealth of the testator u/s 14(1) of the Act r/w Section 19A(1) of the Act. u/s 18(1)(a) penalty can be imposed against those persons who have

failed to furnish the return which they are required to furnish u/s 14(1) of the Act. If he fails to furnish the return in time he would be liable to pay

penalty u/s 18(1)(a), of the Act. Based on the statutory provisions contained in Section 19(1) as well as the above judgment of the Patna High

Court, Mr. Parikh has urged that the substantial question of law arises out of the order of the Tribunal and hence these appeals should be admitted.

12. Mr. Manish J. Shah, learned advocate, appears on issuance of notice on the respondent assessee. He has submitted that the Tribunal has

arrived at the just, proper, correct and legal conclusion and the provisions contained u/s 19(1) as well as Section 19(3) of the Act are correctly

interpreted. All decisions cited before the Tribunal as well as referred to in the order of the Tribunal are in favour of the assessee and consistent

view is taken by all the High Courts that the penalty cannot be levied on legal representative. Such levy of penalty under Sections 18(1)(a), 18(1)

(c) or 15B is neither covered u/s 19(1) nor in Section 19(3) of the WT Act, 1957.

13. From the plain reading of Section 19(1) of the WT Act he has submitted that this section does not call for any other interpretation; even the

words "any sum" included in Section 19(1) do not include penalty. The section clearly states that where a person dies, his executor, administrator

or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting

the charge, the wealth-tax assessed as payable by such person, or any sum, which would have been payable by him under this Act if he had not

died. Admittedly, in the case of assessee penalty orders are passed after the death of the deceased assessee and hence the words any sum cannot

cover the penalty levied after the death of the deceased assessee. He has further submitted that Sub-section (3) of Section 19 specifically excludes

Section 15B or Section 18 of the Act and hence provisions contained in Section 15B or Section 18 shall not apply to the executor, administrator

or other legal representative as they apply to any person referred to in those sections.

14. In support of his submissions, Mr. Shah has relied on the decision of Andhra Pradesh High Court in the case of Smt. Yawarunnissa Begum Vs.

Wealth Tax Officer, A Ward, wherein it is held that the legal representatives of the deceased assessee are not liable for penalty for the default

committed by the deceased assessee u/s 18 of the WT Act. The liability of the legal representatives is only to pay the tax assessed as payable or

any other sums which would have been payable by the deceased had he been alive, out of the estate of the deceased. It is further held that the

words "any sum" which would have been payable by him under the Act if he had not died mentioned in Section 19(1) of the Act do not authorise

the Department to levy penalty on the legal representatives for the default committed by the deceased assessee u/s 18, inasmuch as Section 19(3)

of the Act has not included any liability of the legal representatives in this respect.

15. Mr. Shah further relied on the decision of Madras High Court in the case of Commissioner of Wealth-tax, Tamil Nadu-IV Vs. V.

Varadarajan, wherein it is held that the absence of a legal fiction as found in Section 24B(2) of the Indian IT Act, 1922, would militate against the

acceptance of the contention that the legal representative should be deemed to be assessee in the present case so that he may be made liable to the

penalty, if any, leviable on the deceased. In the absence of any provision similar to Section 159(2)(b) of the IT Act, by which Parliament clearly

intended to levy penalty in the hands of the legal representatives also in a case where the default had been committed by the deceased person, it is

not possible to attribute to the legislature the intention to penalise the legal representatives for the default, if any, committed by the deceased person

under the WT Act. The theory of treating penalty as an additional tax is only for certain purposes and cannot be extended beyond its scope.

16. Mr. Shah further relied on the decision of Allahabad High Court in the case of Rameshwar Prasad Vs. Commissioner of Wealth-tax, wherein it

is held that Chapter V of the WT Act, 1957, deals with liability to assessment in special cases and Section 19 provides for situations where a legal

representative is either liable to proceedings or is liable to pay the wealth-tax or any sum. Liability of a legal representative to assessment or liability

to pay has to be positively found within the statutory provisions of Chapter V. If in a given situation there is no statutory provision for initiation or

continuance of proceedings against a legal representative, they cannot either be initiated or continued. Liability to assessment to tax, interest, fine,

penalty, etc. is different from liability to pay. The phrase "which would have been payable under the Act if he had not died" occurring in Section 19

refers not to liability to assessment but liability to pay in consequence of an order passed under the Act. The existence of an order passed under

the Act is a prerequisite to accrual of liability to pay. Liability to pay continues till payment is made. Sub-section (1) of Section 19 is confined to

liability to pay and it casts upon the legal representative liability to pay wealth-tax or any sum which would have been payable by the deceased if he

had not died. Section 19(1) by itself does not create on the legal representative liability to pay that which was nonexistent till the date of death of

the deceased. In other words, if an order creating liability to pay under the Act had not been passed till the date of death of the original assessee,

Sub-section (1) of Section 19 does not authorise creation of liability to pay on the legal representative. The absence of Section 18 from being

mentioned in Section 19(3) is significant. Penalty proceedings u/s 18 cannot be initiated against a legal representative because a legal representative

has not been made liable to be assessed to penalty. A notice to show cause cannot be issued to a legal representative, firstly, because he has not

been made liable to show any such cause, and, in the next place, the legal representative cannot be said to have committed any default in cases

where the deceased assessee delayed filing of the return. Default was committed by the original assessee. The legal representative has not been

made liable to be assessed for such a default of the original assessee. If in a given situation a legal representative is not liable to be assessed under

the Act, he cannot be assessed by passing an order, and consequently, no liability to pay will arise against him. If, for example, penalty proceedings

had been initiated by issuance of show-cause notice to the original assessee and during the pendency of the proceedings the original assessee dies,

the proceedings will come to an end. They cannot be continued against the legal representative because the legal representative is not liable to be

assessed to penalty and since no order determining liability can be passed after the death of the person who was liable to be assessed, no order

can be passed after his death against the legal representative. u/s 3, wealth-tax is a charge on an individual, HUF and company. It is assessable in

respect of the net wealth. Penalty u/s 18 is a liability imposed on the assessee for defaults committed by him. It has nothing to do with the estate or

the assets held by him. Therefore, penalty proceedings u/s 18(1)(a) for late filing of returns commenced against the person who had filed the

returns cannot validly be continued after his death against his legal representative.

17. Mr. Shah has further relied on the decision of the Madhya Pradesh High Court in the case of Commissioner of Wealth-tax Vs. Abdul Mazid

Khan, wherein it is held that a reading of Section 18 of the WT Act, 1957 shows that penalty is imposed on such person, which means the person

who has concealed the particulars of assets or furnished inaccurate particulars of the same. Section 18 does not provide for continuation of penalty

proceedings against the legal representatives of such person. Section 19(1) which deals with the liability of a legal representative inheriting the

estate of the deceased who is liable for payment of wealth tax, does not provide for the continuation of penalty proceedings against the legal

representative when the assessee dies before the proceedings are concluded. The omission of Section 18 from Section 19(3) shows that Section

18 cannot be made applicable to a legal representative. Further, the definition of assessee in Section 2(c) does not provide that the legal

representative of an assessee would be deemed to be an assessee for all purposes under the Act. In the absence of any provision like Section 159

of the IT Act of 1961 in the WT Act, it could not be held that penalty proceedings started against an assessee u/s 18 could be continued against

his legal representative.

18. Mr. Shah further relied on the decision of Madhya Pradesh High Court in the case of Commissioner of Wealth-tax Vs. Smt. Banoo E.

Cowasji, wherein it is held that, (i) there was no provision of law under which the legal representative of the deceased was bound to submit the

WT return for the asst. yr. 1967-68, immediately after the death of her husband on or before 30th Sept., 1968. (ii) The deceased was alive on

30th Sept., 1967, on which date he had to file the return. Hence, till that date, the legal representative did not come into the picture and so no

default could be said to have been committed by her. (iii) Since there could be only one default in delayed filing of return the legal representative

could not be held liable for not submitting the WT return on or before 30th Sept., 1967, and, consequently, no penalty proceedings could be

initiated against her in view of the provisions of Sub-section (3) of Section 19 according to which only provisions of Sections 14, 15 and 17 were

applied to an executor, administrator or other legal representative as they apply to any person referred to in those sections. (iv) Though Section

2(c), which defined an assessee, also included a legal representative, the assessee could not be held liable for payment of any penalty u/s 18(1)(a)

as this was not a case where the original assessee had died before the expiry of the date for submitting his WT return so that, after the death of the

original assessee, the legal representative became the assessee, who should have filed the return before the expiry of the date on which the original

assessee had to submit his WT returns. Therefore, the initiation of penalty proceedings for late filing of the WT return against the legal

representative of the deceased were not valid.

19. Mr. Shah further relied on the decision of the Rajasthan High Court, Jaipur Bench, in the case of Commissioner of Wealth-tax Vs. Rani Sajjan

Kumari, wherein it is held that no penalty u/s 18 can be imposed on a legal representative on whom assessment has been made u/s 19 of the WT

Act, 1957. Sub-section (3) of Section 19 makes it abundantly clear that though the provisions of Sections 14, 15 and 17 apply to an executor,

administrator or other legal representative, Section 18 is not applicable. The omission of Section 18 in Sub-section (3) of Section 19 is quite

significant, which clearly shows the intention of the legislature that in case where action would be taken under Sub-section (2) of Section 19 of the

Act, the question of imposing any penalty on the legal representative cannot arise.

20. Mr. Shah further relied on the decision of the Allahabad High Court in the case of Ved Prakash Narang Vs. Commissioner of Wealth-tax,

wherein it is held that Section 19 and Section 19A of the WT Act, 1957, are applicable to two different situations. Section 19A is confined to

cases where an assessee dies after executing a will and appointing an executor. Section 19(1) is applicable to a situation where a person was alive

on the valuation date and was assessed to tax but died later. Section 19(2) provides for a case where a person dies without furnishing the return or

after furnishing the return. In such a case, the WTO is empowered to make an assessment. If no return was filed by a person and he dies after the

valuation date, Section 19(3) imposes a duty on the legal representative to file the return. The absence of any mention of Section 18 in Section

19(3) is significant. Penalty proceedings u/s 18 cannot be initiated against a legal representative, because a legal representative has not been made

liable to levy of penalty. A notice to show cause cannot be issued to a legal representative, firstly, because he has not been made liable to show

any such cause, and, in the next place, he cannot be said to have committed any default in cases where the deceased assessee had delayed the



filing of the return. Default was committed by the deceased assessee. The legal representative has not been made liable to penalty for such default

of the deceased assessee. The words "any sum" in Sub-section (1) of Section 19 do not cover penalty. Hence, penalty proceedings cannot be

legally initiated in a case to which Section 19(3) applies.

21. Lastly, Mr. Shah relied on the decision of Delhi High Court in the case of The Commissioner of Wealth Tax, Delhi-I Vs. H.S. Chauhan,

wherein it is held that Sub-section (3) of Section 19 of the WT Act, 1957, provides that the provisions of Sections 14, 15 and 17 shall apply to an

executor, administrator or other legal representative as they apply to any person referred to in those sections. Sub-section (1) deals with the

liability of legal representative to pay tax of a deceased person. Sub-sections (2) and (3) deal with the liability to assessment. Sub-section (2)

provides for initiating proceedings for assessment and determination of net wealth payable by the deceased person. It, therefore, has no application

to a proceeding in relation to imposition of penalty. Sections 14, 15 and 17 contemplate and authorise initiation as well as continuance of

proceedings for determining wealth-tax on the basis of the return as well as on the basis of escapement of wealth against, inter alia, a legal

representative. Therefore, the provisions of Section 18 do not come within the ambit of Section 19. At this juncture, it will be relevant to note that

u/s 159 of the IT Act, 1961, there is a clear prescription for continuance of proceedings, inter alia, for imposing penalty against a legal

representative; Sub-section (2) of Section 159 of the IT Act is contextually different from Sub-section (3) of Section 19 of the WT Act. The

position is not similar so far as proceedings u/s 18 of the Act are concerned. Penalty cannot be levied on the legal representative.

22. Based on the aforesaid decisions of the various High Courts and relevant statutory provisions of Sections 19(1) and 19(3) of the WT Act, Mr.

Shah has strongly urged that no substantial question of law arises out of the order of the Tribunal and all these appeals therefore deserve to be

summarily dismissed.

23. Having heard learned standing counsel, Mr. K.M. Parikh, appearing for the Revenue, and Mr. Manish J. Shah, learned advocate, appearing

for the respondent assessee and having gone through the orders passed by the authorities below and further having considered the relevant

statutory provisions contained in the WT Act, 1957 as well as legal authorities referred to and relied upon by the parties before the Court, we are

of the view that in absence of any contrary decision on the issue and that there is no scope for any other interpretation of Sections 19(1) and 19(3)

of the Act under which the legal representative is made liable to penalty under Sections 18(1)(a), 18(1)(c) and 15B of the Act, no question of law,

much less any substantial question of law arises out of the order of the Tribunal and hence all these appeals filed by the Revenue deserve to be

dismissed at the threshold.

24. Before we proceed to deal with the issue raised before us for our consideration, it is necessary to have a close look at the provisions contained

in Sections 19(1) and 19(3) of the Act. Section 19 falls in Chapter V of the WT Act. This chapter deals with liability to assessment in special

cases. Section 19 talks of tax of deceased person payable by legal representative. Sub-section (1) of Section 19 reads as under:

19. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased

person, to the extent to which the estate is capable of meeting the charge, the wealth-tax assessed as payable by such person, or any sum, which

would have been payable by him under this Act if he had not died.

Under this sub-section, the executor, administrator or other legal representative is liable to pay wealth-tax assessed as payable by the deceased,

out of the estate of the deceased, after his death. The executor, administrator or other legal representative is also liable to pay any sum, which

would have been payable by the deceased person under this Act, if he had not died. Either the wealth-tax assessed or any other sum is payable by

the executor, administrator or other legal representative, out of the estate of the deceased person. The prerequisite of this sub-section is that there

should be an assessment and the liability to pay the wealth-tax or any other sum should arise during the lifetime of the deceased. It is an admitted

position that during the lifetime of the deceased, the returns of wealth for the respective assessment years were filed by the deceased and the

wealth-tax assessments were also completed. It is also an admitted position that notices for penalty under Sections 18(1)(a), 18(1)(c) and 15B of

the Act were issued on the deceased assessee during his lifetime. However, no penalty order was passed during the lifetime of the deceased. To

make the legal representative liable for penalty u/s 19(1), it is not enough that the penalty proceedings should be initiated during the lifetime of the

deceased. It is also necessary that such penalty proceedings must result into penalty orders during his lifetime. No penalty orders have been passed

during the lifetime of the deceased and hence it cannot be said that any sum of penalty would have been payable by the executor, administrator or

other legal representative under this Act, on the death of the deceased, if he had not died.

25. Sub-section (3) of Section 19 reads as under:

19. (3) The provisions of Sections 14, 15 and 17 shall apply to an executor, administrator or other legal representative as they apply to any person

referred to in those sections.

The plain reading of this sub-section makes it clear that the legislature have purposefully not included either Section 18 or Section 15B of the Act.

It is also in consonance with the mandate of Sub-section (1) of Section 19. u/s 19(1), neither the penalty can be levied on the executor,

administrator or other legal representative nor it can be recovered from him. There is no question of incorporating Section 18 or Section 15B of

the Act under Sub-section (3) of Section 19 of the Act. We are, therefore, of the view that neither Section 19(1) nor Section 19(3) casts any

obligation on the executor, administrator or other legal representative to pay the amount of penalty as they are not liable to face any such penalty

proceedings for which they have ever committed any default. Default, if any, at all were committed, were committed by the deceased and the

deceased assessee was not alive when the penalty proceedings were culminated into the penalty orders.

26. The view which we are taking not only finds support from the plain reading of the section but it is also supported by not less than six High

Courts. We have extensively reproduced the ratio laid down by the various High Courts dealing with this issue, in the preceding paras. The gist of

these decisions is that,

(i) The legal representatives of the deceased are not liable for penalty for which default committed by the deceased assessee.

(ii) The liability of the legal representative is only to pay the tax assessed as payable or any other sum which would have been payable by the

deceased, had he been alive, out of the estate of the deceased.

(iii) The words "any sum which would have been payable by him under the Act if he had not died" mentioned in Section 19(1) of the Act do not

authorise the Department to levy penalty on the legal representatives for the default committed by the deceased assessee.

(iv) In the absence of any provision similar to Section 159(2)(b) of the IT Act, by which Parliament clearly intended to levy penalty in the hands of

the legal representatives also in a case where the default had been committed by the deceased person, it is not possible to attribute to the

legislature the intention to penalise the legal representatives for the default, if any, committed by the deceased person under the WT Act.

(v) If an order creating liability to pay under the Act had not been passed till the date of death of the original assessee, Sub-section (1) of Section

19 does not authorise creation of liability to pay on the legal representative.

(vi) Section 19(1) of the Act does not provide for the continuation of penalty proceedings against the legal representative when the assessee dies

before the proceedings are concluded.

(vii) The definition of an assessee in Section 2(c) does not provide that the legal representative of an assessee would be deemed to be an assessee

for all purposes under the Act, unlike Section 159(3) of the IT Act which says that the legal representative of the deceased shall, for the purposes

of this Act, be deemed to be an assessee.

(viii) The omission of Section 18 in Sub-section (3) of Section 19 is quite significant, which clearly shows the intention of the legislature that in case

where action would be taken under Sub-section (2) of Section 19 of the Act, the question of imposing any penalty on the legal representative

cannot arise.

(ix) Sections 14, 15 and 17 contemplate and authorise initiation as well as continuance of proceedings for determining wealth-tax on the basis of

the return as well as on the basis of escapement of wealth against, inter alia, a legal representative. The provisions of Section 18 therefore do not

come within the ambit of Section 19.

27. The solitary decision of the Patna High Court in the case of Late Rani H.R. Laxmi (Estate) (supra) on which heavy reliance was placed by the

learned standing counsel for the Revenue has no application to the facts of the present case. Admittedly, in the Patna case, the assessee is an

executor of the estate of the late Rani H.R. Laxmi, who died on 7th March, 1980. The return of wealth as on the valuation date, i.e., 31st March,

1980 was due to be filed by 30th July, 1980. The said Rani H.R. Laxmi died before the valuation date after executing a will and appointing the

assessee as an executor under the will, who was required to file the return relating to the wealth of the deceased. The executor did not file the

return by the aforesaid date but he filed it on 12th July, 1982. As there was a delay of twenty-three completed months in filing the return, a

proceeding u/s 18(1)(a) of the Act was initiated against the executor for imposition of penalty. It is in this context, after referring to the provisions

of Sections 14(1), 19A(1) and 18(1)(a) of the Act, the Court took the view that from a bare perusal of the provision of Section 14(1) of the Act, it

would appear that under the said subsection a person is assessable to payment of wealth-tax on his own net wealth. It further lays down that a

person is liable to pay wealth-tax on the net wealth of any other person in respect of which he is assessable under this Act. So far as an executor is

concerned, he is liable to pay wealth-tax in relation to the net wealth of the testator under Sub-section (1) of Section 19A of the Act.

28. In this view of the matter, the Court had come to the conclusion that an executor is liable to pay wealth-tax in relation to the net wealth of the

testator u/s 14(1) of the Act r/w Section 19A(1) of the Act. The Court further held that u/s 18(1)(a) penalty can be imposed against those persons

who have failed to furnish the return which they are required to furnish u/s 14(1) of the Act. The executor was required to furnish the return u/s

14(1) of the Act. Therefore, from the plain reading of Section 18(1)(a) of the Act the Court held that the executor is liable to pay penalty u/s 18(1)

(a) of the Act. The facts of this case are clearly distinguishable as in the case on hands, the returns were filed by the deceased assessee and there

was no obligation on the legal representative to file the return of wealth. Pursuant to the returns of wealth filed by the deceased assessee,

assessments were also completed and after issuance of penalty notice and during the pendency of penalty proceedings, but before the penalty

orders were passed, the deceased expired. Thus, the penalty orders passed on the legal representative are contrary to the provisions of law and he

cannot be made liable to any penalty.

29. In the above view of the matter and considering the settled legal position, we are of the view that no question of law, much less any substantial

question of law, arises out of the order of the Tribunal and hence all these appeals are accordingly dismissed.