

Smt. Prabha Rajya Lakshmi Vs Wealth-tax Officer, A-Ward and Another

Court: Madhya Pradesh High Court (Indore Bench)

Date of Decision: June 30, 1982

Acts Referred: Wealth Tax Act, 1957 &" Section 17(1)

Citation: (1983) 37 CTR 226 : (1983) 144 ITR 180 : (1984) 16 TAXMAN 116

Hon'ble Judges: K.N. Shukla, J; G.G. Sohani, J

Bench: Division Bench

Advocate: G.M. Chafekar, for the Appellant; A.H. Khan, for the Respondent

Judgement

Shukla, J.

This is a petition under Article 226/227 of the Constitution of India challenging the jurisdiction of the WTO in issuing notices

(annexs. H, H-1 and H-2 of the petition) u/s 17 of the W.T. Act for reopening assessments in respect of the assessee's net wealth for the

assessment years 1972-73, 1973-74 and 1974-75.

2. Petitioner is a wealth-tax assessee. Among other assets she held agricultural land admeasuring 205 bighas. For the assessment year 1970-71

she had declared the value of the lands at Rs. 36,000. This value had been returned on the basis of the valuation report of an approved valuer. The

WTO accepted this value for the assessment year 1970-71 and 1971-72.

3. In the previous year relevant to the assessment year 1972-73 (valuation dated March 31, 1972) assessee sold 100 bighas of land for a sum of

Rs. 20,000 and for the remaining land the value was shown at Rs. 16,000 in the wealth-tax return. This value was accepted by the WTO. In the

previous year relevant to the assessment year 1973-74 (valuation dated March 31, 1973), the assessee sold 75 bighas of land for a sum of Rs.

15,000. The value of the remaining land was shown at Rs. 1,000 in the return. The WTO accepted this value while framing the assessment. For the

assessment year 1974-75 the assessee revised the valuation of the remaining land and showed it at Rs. 45,000 which value was accepted by the

WTO.

4. On September 23, 1980, the WTO passed an order observing that by reason of omission or failure on the part of the assessee to disclose all

material facts necessary for the purpose of assessment the wealth had been under-assessed and accordingly reopened the assessments for the

assessment years 1972-73 to 1974-75 u/s 17 of the W.T. Act. Notices in pursuance thereof were issued to the assessee (annexs. H, H-1 and H-

2, and the same have been challenged by the petitioner as invalid and without jurisdiction.

5. Petitioner has alleged that the WTO had no jurisdiction to reopen the assessments because all the primary facts with regard to valuation of the

agricultural land in question had been placed before him and the same were accepted by him without demur. There was no omission or failure on

the part of the assessee to disclose fully and truly all material facts necessary for assessment and, therefore, the action of the WTO in reopening the

assessments was void and without jurisdiction.

6. In the return filed on behalf of the respondents it is submitted that the petitioner while submitting her returns for the years in question did not

mention the correct value of the agricultural lands and this conferred jurisdiction on the WTO to reopen the assessment. It is alleged that the

petitioner sold part of her land in the year 1979 at the rate of Rs. 10,000 per bigha and this clearly showed that the value for agricultural lands in

the assessment years in question could not have been less than; Rs. 5,000, per bigha. On the basis of this information coming to the knowledge of

the WTO the assessments were reopened u/s 17(1)(a) of the W.T. Act. The action taken by the WTO has, therefore, been justified on the ground

that the petitioner had failed to furnish proper particulars about her agricultural lands.

7. The order dated September 23, 1980, passed by the WTO may be reproduced:

On December 10, 1979, the assessee presented application u/s 230A for sale of the agricultural land. From these, it is seen that the assessee has

agreed to sell the land at Rs. 10,000 per bigha. These transactions are for 20.5 bighas. From these it is seen that the value of agricultural land

measuring at least 20.5 bighas was understated on the valuation date relevant to the assessment years 1972-73, 1973-74 and 1974-75.

I have, therefore, reason to believe that the value of agricultural land with the assessee was much more than 50,000. By reason of omission and

failure on the part of the assessee to disclose all material including correct valuation, necessary for the purposes of assessment the case has been

under-assessed. The value of agricultural land is estimated at Rs. 1,75,000, Rs. 1,85,000 and Rs. 2,00,000 for the three years, resulting in the

under-assessment of wealth to the extent of Rs. 1,25,000 Rs. 1,35,000 and Rs. 1,50,000. The case requires action u/s 17. Issue notice u/s 17.

8. From this order it is manifest that the assessments were reopened on the basis of the information coming to the knowledge of the WTO on

December 10, 1979, that the land had been sold in the year 1979 at the rate of Rs. 10,000 per bigha. In the return the respondents have shifted

their stand from time to time, at one time alleging that the petitioner had failed to disclose fully and truly all material facts necessary for the

assessment of her net wealth, and at the other stating that the WTO reopened the assessment on receipt of information about higher value of the

land. This confusion occurred because the order dated September 23, 1980, referred to receipt of information by the WTO which fact squarely

brought the order within the ambit of Section 17(1)(b) of the Act. But action u/s 17(1)(b) of the Act had become time barred and so some

gymnastics had been done to bring it within the larger period of limitation prescribed u/s 17(1)(a) of the Act. In the return, therefore, sometimes

reference is made to non-disclosure of material facts and sometimes to receipt of information by the WTO about the higher valuation of the lands in

question.

9. However, since the learned counsel for the respondents stated that the validity of the action of the WTO has to be considered under the

provisions of Section 17(1)(a) of the W.T. Act, it is necessary to find out whether there was any failure on the part of the petitioner to disclose fully

and truly all material facts necessary for assessment of her net wealth.

10. It was not disputed that prior to the assessment years in question the petitioner had disclosed the value of her lands on the basis of the report of

the approved valuer and the same was accepted by the WTO. In the assessment, years in question, therefore, she declared the same value after

making deductions due to sales of parts of the land. She, therefore, declared the value on the basis of her earlier valuation and had also disclosed

the fact about sales of parcels of the land during previous years relevant to assessment years in question. If the WTO doubted the correctness of

the valuation it was open to the Department to get the same valued by its own valuer or to have recorded evidence about the real market value of

the lands on the valuation date. Section 17(1)(a) of the W.T. Act does not empower the Revenue to reopen the final assessment even though by

oversight, carelessness or inefficiency on the part of its officer, proper investigation was not carried out though all the primary facts which the

assessee was required to place before him had been so placed. This is the considered view of the Supreme Court in Calcutta Discount Company

Limited Vs. Income Tax Officer, Companies District, I and Another, , Gemini Leather Stores Vs. The Income Tax Officer B Ward, Agra and

Others, and Income Tax Officer and Others Vs. Madhani Engineering Works Ltd., Calcutta, .

11. As the assessee had placed all the primary facts before the WTO for the assessment years in question with regard to the value of the

agricultural land, there was no failure on her part which would entitle the WTO to take recourse to Section 17(1)(a) of the Act for reopening the

assessments.

12. The petition is, therefore, allowed and notices issued by the WTO u/s 17(1)(a) of the W.T. Act for assessment years 1972-73, 1973-74 and

1974-75 (annexs, H. H-1 and H-2 of the petition) are quashed.

13. Costs of this petition will be borne by the respondents. Advocate's fee Rs. 150. The outstanding amount of security deposit be refunded to the

petitioners.