(2002) 09 MAD CK 0115

Madras High Court

Case No: Tax Case No. 252 of 1995

Commissioner of Wealth Tax		APPELLANT
	Vs	
S.A.P. Annamalai (Decd.) through LR		RESPONDENT

Date of Decision: Sept. 9, 2002

Acts Referred:

- Wealth Tax Act, 1957 - Section 25(2)

Citation: (2003) 185 CTR 562

Hon'ble Judges: R. Jayasimha Babu, J; K. Raviraja Pandian, J

Bench: Division Bench

Advocate: T.C.A. Ramanujam, for the Appellant; R. Amizdhu, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

R. Jayasimha Babu, J.
The question referred is as to whether the order of the Tribunal is not contrary to the provisions of Expln. (b) to Section 25(2) of the WT Act. The assessment year is 1983-84.

2. In the wealth-tax proceedings relating to the asst. yr. 1983-84, the value of the house property owned by the assessee at Purasawalkam High Road was determined at Rs. 26,58,000. The assessment was made for that year accepting that value, For the subsequent year, the matter was referred to the Departmental Valuation Officer, who valued the property at Rs. 55,42,000 as on 31st March, 1984. The assessee owned another property at Coimbatore which had been valued at Rs. 2,50,000 in the asst. yr. 1983-84 and which value had been accepted. For the year 1984-85, the same property was valued by the Valuation Officer at Rs. 4,93,000.

3. The CWT, thereafter, exercising the revisional powers u/s 25 of the WT Act, revised the order of assessment for the year 1983-84. The order of the CWT was challenged

by the assessee before the Tribunal, which set aside the order of the CWT on the ground that the valuation report had come into existence subsequent to the assessment for the year 1983-84 and, therefore, could not form part of the record.

4. The Supreme Court, in the case of CIT v. Shree Manjunathesware Packing Products (1998) 231 ITR 53, has held that even prior to the amendment to Section 25(2) by the Finance Act of 1988, the word "record" used in Section 25(1) was required to the understood in a wider sense, and not confined merely to the record that was before the AO at the time of assessment, The Court observed in that case that :

"If the material, which was not available to the ITO when he made the assessment could thus be taken into consideration by the CIT after holding an enquiry, there is no reason why the material which had already come on record though subsequent to the making of the assessment, cannot be taken into consideration by him. Moreover, in view of the clear words used in Clause (b) of the Explanation to Section 263(1), it has to be held that while calling for and examining the record of any proceeding under s, 263(1), it is and it was open to the CIT not only to consider the record of that proceeding but also the record relating to that proceeding available to him at the time of examination."

The Court, in that case, was concerned with the assessment made for the asst, yr. 1977-78.

5. This Court has held to the same effect by following that decision of the apex Court in Manjunathesware (supra) in the case of Commissioner of Income Tax Vs. M.N. Sulaiman, .

6. Our answer to the question referred has to be, and is, in favour of the Revenue, and against the assessee.