

(2006) 11 MAD CK 0024

Madras High Court

Case No: T.C. (A) No"s. 968 and 969 of 2005

Rajinikanth

APPELLANT

Vs

The Asst. Commissioner of
Wealth Tax

RESPONDENT

Date of Decision: Nov. 13, 2006

Acts Referred:

- Wealth Tax Act, 1957 - Section 2

Hon'ble Judges: P.P.S. Janarthana Raja, J; P.D. Dinakaran, J

Bench: Division Bench

Advocate: R. Venkatnarayan, for R. Subbaraya Aiyar, for the Appellant; Pushya Sitaraman, Senior Standing Counsel, for the Respondent

Judgement

P.D. Dinakaran, J.

The appeals are directed against the order of the Income Tax Appellate Tribunal dated 13.11.2001 passed in W.T.A. Nos. 29 and 30/Mds/93, for the assessment years 1988-89 and 1989-90 respectively.

2. The brief facts of the case are that the appellant/assessee, who is a film artist, filed returns of wealth claiming exemption of the annuity policies held by him in terms of Section 5(1)(vi) of Wealth-tax Act, 1957. This claim was disallowed by the Assessing Officer, who brought the annuity policies to tax. Aggrieved by the said order, the assessee filed appeals before the Commissioner of Income Tax (Appeals), who upheld the claim of the assessee. On appeal by the Revenue, the Tribunal reversed the decision of the Commissioner placing strong reliance on the decision rendered by Bombay High Court in [Commissioner of Wealth Tax Vs. Ajit Alias Hamid Alikhan](#). It is against the said order of the Income Tax Appellate Tribunal, the assessee has come forward with these Tax Case Appeals by raising the following substantial questions of law:

1. Whether the annuity policies in the name of the appellant could be subjected to levy of wealth-tax in terms of Section 2(e) read with Section 5(1)(vi) of the Wealth-tax Act is correct, valid and proper ?

2. Whether the Tribunal is treating the said annuity policies as "assets" within the meaning of Section 5(1)(vi) of the Act ?

3. Whether the Tribunal is correct in applying the proviso to Section 5(1)(vi) of the Act to bring to tax the value of the said annuity policies?

4. Whether the Tribunal is correct in bringing to tax the value of the said annuity policies brushing aside the terms of the said policies?

3. Mrs.Pushya Sitaraman, learned senior standing counsel appearing for the Revenue fairly submits that the issues raised in these appeals, which are inter-related, are squarely covered by the decision of this Court in the assessee's own case for the assessment year 1990-91 in T.C. No. 90 of 2002 by order dated 22.12.2004, wherein following the decision of the Bombay High Court in [Commissioner of Wealth Tax Vs. Ajit Alias Hamid Alikhan](#), decision of Apex Court in Commissioner of Wealth Tax v. U.C. Mehatab (1998) 231 ITR 501, as well as the decision of this Court in [Commissioner of Wealth-tax Vs. Jayalalitha](#), held the issue whether the annuity is includible in the net wealth of the assessee, against the assessee.

4. In the said decision, with regard to the exemption claimed by the assessee, this Court, following the decision of the Andhra Pradesh High Court in [Commissioner of Wealth Tax Officer Vs. N.T. Rama Rao per LRs](#), that exemption should be computed in accordance with the proviso to Section 5(1)(vi) of the Wealth Tax Act, held the issue partly in favour of the assessee.

5. This Court, again, in the case of K.Chiranjeevi, a film artist, in T.C.(R) Nos. 179 and 226 of 2001, when the issue with regard to the exemption u/s 5(1)(vi) of the Wealth Tax Act was referred at the instance of the Revenue, after referring to Sections 2(e)(2)(ii) and 5(1)(vi) of the Wealth Tax Act and following the decision of the Andhra Pradesh High Court as well as the decision of this Court in T.C. No. 90 of 2002, remitted the matter to the Tribunal to decide the issues as held in the above two decisions.

6. In view of the above settled proposition of law, the present tax case appeals are disposed of, answering the questions of law as held in the above referred decisions. No costs.