

(2002) 10 MAD CK 0165

Madras High Court

Case No: Tax Case No. 46 of 1998

Commissioner of Wealth Tax

APPELLANT

Vs

A.S. Ananth

RESPONDENT

Date of Decision: Oct. 7, 2002**Acts Referred:**

- Wealth Tax Act, 1957 - Rule 2(9)

Citation: (2003) 261 ITR 763 : (2003) 131 TAXMAN 342**Hon'ble Judges:** R. Jayasimha Babu, J; K. Raviraja Pandian, J**Bench:** Division Bench**Advocate:** Pushya Sitaraman, for the Appellant; None, for the Respondent

Judgement

R. Jayasimha Babu, J.

The question referred to us at the instance of the Revenue is,

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law and had valid materials in holding that the market value of the shares held by the assessee in a company in which the public are substantially interested and the shares of which are also quoted in a recognised stock exchange can be fixed at a rate lower than the rates quoted in the stock exchange ?"

2. The assessment year is 1989-90.

3. The assessee held shares in Solidaire India Limited. The value of 39,600 shares held by the assessee in that company was valued by the Wealth-tax Officer at Rs. 73 per share, as that was the value at which the share was traded on the stock exchange as on the valuation date. The Assessing Officer rejected the assessee's claim that it should be valued at the book value of Rs. 15.75 per share as by reason of an undertaking given by the assessee to the Industrial Credit and Investment Corporation of India Limited, he was not to dispose of the shares so long as any money remained outstanding to the said Corporation.

4. The assessee's appeal having proved unsuccessful, he carried the matter to the Tribunal. The Tribunal took the average of the book value and the value as per the quotation on the stock market and directed the valuation of the assessee's shares at Rs. 45 per share. For doing so, the Tribunal has not referred to any provision of the Wealth-tax Act enabling them to fix the value in that manner.

5. "Quoted share" is defined in Rule 2(9) of Schedule III to the Wealth-tax Act, which Schedule sets out the rules for determining the value of assets. "Quoted share" or "quoted debenture" in relation to an equity share or a preference share or, as the case may be, a debenture is defined as meaning "a share or debentures quoted on any recognised stock exchange with regularity from time to time, where the quotations of such shares or debentures are based on current transactions made in the ordinary course of business." The Explanation under that definition provides that, "where any question arises whether a share or debenture is a "quoted share" or a "quoted debenture" within the meaning of this clause, a certificate to that effect furnished by the concerned stock exchange in the prescribed form shall be accepted as conclusive." Part C of that Schedule III before its omission by the Finance Act, 1992, with effect from April 1, 1993, in Rule 9 provided that "the value of an equity share or a preference share in any company or a debenture of any company which is a quoted share or a quoted debenture shall be taken as the value quoted in respect of such share or debenture on the valuation date or where there is no such quotation on the valuation date, the quotation on the date closest to the valuation date immediately preceding such date."

6. The Commissioner has noted in his order in appeal that "the fact that the shares held by the assessee in Solidaire India Limited are quoted on the stock exchange and their value adopted according to the quoted rate is not disputed."

7. The only mode of the valuation of these shares therefore was the rate quoted at the exchange. No deduction therefrom is provided for in the rules and no deduction could have been granted by the Tribunal by taking the average of the book value and the quotation of the stock exchange for these shares. Rule 9 of Schedule III is very clear. It provides that the value of the quoted shares "shall be taken as the value quoted . . ."

8. Moreover, what is taxed under the Wealth-tax Act is the net wealth as on the valuation date. The transferability or otherwise of that wealth during that year is not of material significance. If an asset is required to be valued in the manner provided in the statute, it has necessarily to be valued by adopting that mode and no other. If the statute does not provide for any deduction therefrom, no such deduction can be allowed by the Tribunal. The question referred to us is, therefore, answered in favour of the Revenue and against the assessee.