

(1994) 12 BOM CK 0068

Bombay High Court

Case No: Wealth-tax Reference No. 118 of 1985

Commissioner of Wealth-tax

APPELLANT

Vs

Smt. Urmila L. Pittie

RESPONDENT

Date of Decision: Dec. 12, 1994

Acts Referred:

- Wealth Tax Act, 1957 - Section 27(1)

Citation: (1995) 215 ITR 356 : (1995) 2 MhLj 35

Hon'ble Judges: S.M. Jhunjhunwala, J; B.P. Saraf, J

Bench: Division Bench

Advocate: Dr. V. Balasubramanian, for the Appellant;

Judgement

Dr. B.P. Saraf, J.

By this reference u/s 27(1) of the Wealth-tax Act, 1957, the following question of law has been referred by the Income Tax Appellate Tribunal to this court for opinion :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the reversionary value of the land was not includible for purpose of valuation when the property was valued on the rent capitalisation method ?"

2. The assessee is an individual. This reference relates to her assessments under the Wealth-tax Act for the assessment years 1975-76 and 1976-77, the relevant valuation dates being March 31, 1975, and March 31, 1976, respectively. The assessee had 35 per cent. interest in an immovable property known as "Raghunath Baug" in Fort, Bombay. This property was valued by the Departmental valuer by adopting the rent capitalisation method. Thereafter, the Departmental Valuation Officer added a sum of Rs. 5,16,812 as reversionary value of the land thereto and then arrived at the net value of the property at Rs. 10,86,022. He thereafter took 35 per cent. of the said amount as the assessee's share in the above property. Aggrieved by the addition of the reversionary value of the land to the value of the property in question arrived at

by the Departmental valuer by the rent capitalisation method, the assessee appealed to the Commissioner of Wealth-tax (Appeals). The Commissioner of Wealth-tax (Appeals), following the decision of the Calcutta High Court in [Commissioner of Income Tax Vs. Smt. Ashima Sinha](#), accepted the contention of the assessee and directed the Wealth-tax Officer to work out the value of the assessee's share in the property on the capitalised rental valuation adopted by the Departmental Valuation Officer without adding the reversionary value of the land. The Revenue appealed to the Tribunal against the order of the Commissioner (Appeals). The Tribunal agreed with the view taken by the Commissioner (Appeals) and dismissed the appeal of the Revenue. Hence, this reference.

3. The only question for determination is whether after the property is valued on rental basis, the reversionary value of the land can again be added to the valuation of the property so arrived at. We have given our careful consideration to the above controversy. We are, however, of the clear opinion that by valuing the property on rental basis, the value of both the land and building is determined and, hence, the value of the land cannot again be added thereto by adding the "reversionary" value of the land on the ground that the building is very old. We are in agreement with the ratio of the decision of the Calcutta High Court in this regard in [Commissioner of Income Tax Vs. Smt. Ashima Sinha](#). We have also perused the decision of the Karnataka High Court in [S. Neelaveni Vs. Commissioner of Wealth Tax, Karnataka](#). The said decision, in our opinion, is not relevant for the determination of the point at issue in this case.

4. In the premises, we answer the question referred to us in the affirmative and in favour of the assessee.

5. In the facts and circumstances of the case, there shall be no order as to costs.