(1994) 12 BOM CK 0069

Bombay High Court

Case No: Wealth-tax Reference No. 14 of 1987

Commissioner of Wealth-tax		APPELLANT
	Vs	
Master Asutosh K. Mahadevia		RESPONDENT

Date of Decision: Dec. 6, 1994

Acts Referred:

- Wealth Tax Act, 1957 - Section 2, 27(1)

Citation: (1995) 124 CTR 191 : (1995) 215 ITR 200

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

Bench: Division Bench

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

Judgement

Dr. B.P. Saraf, J.
By this reference u/s 27(1) of the Wealth-tax Act, 1957, the Income Tax Appellate Tribunal has referred the following questions of law to this court for opinion :

"1. Whether in valuing the shares of Surat Cotton Spg. and Wvg. Co. P. Ltd., the Tribunal ws correct in holding that the advance tax paid by the company should be deducted from the assets side as appearing in the balance-sheet of the company, while full provision for taxation should be deducted as a liability ?

2. Whether, on the fact and in the circumstances of the case, the Tribunal was right in directing to recompute the value of the assets represented by the balance-sheet in compulsory deposit account at discounted value of the balance as on the valuation date on actuarial valuation basis ?"

2. Counsel for the Revenue states that the first question is covered by the decision of the Supreme Court in the case of Bharat Hari Singhania and others Vs. Commissioner of Wealth Tax (Central) and others, . Following the same, this question is answered in the

negative and in favour of the Revenue.

3. So far as the second question is concerned, the controversy therein is whether the amount credited to the Compulsory Deposit Scheme Account of the assessee under the Compulsory Deposit Scheme (income tax Payers) Act, 1974 ("the Compulsory Deposit Act"), is to be discounted for inclusion in the wealth of the assessee for the purpose of levy of wealth-tax under the Wealth-tax Act, 1957 ("the Act"). The answer to this question will depend upon a proper appreciation of the scheme and the relevant provisions of the Compulsory Deposit Act.

4. The Compulsory Deposit Scheme (income tax Payers) Act, 1974, was enacted by Parliament provide for compulsory deposit by certain classes of Income Tax payers. u/s 4 of the said Act, every person specified therein whose income exceeded fifteen thousand rupees was required to make compulsory deposit at the rates specified in the Schedule. The compulsory deposit so made carried simple interest at a rate equal to the bank deposit rate (section 7). Section 8 specified the manner of repayment of the amount of compulsory deposit. It read (see [1974] 95 ITR 168) :

"8. Repayment of compulsory deposit. - The amount of compulsory deposit made by or recovered from a depositor in any financial year shall be repayable in five equal annual instalments commencing from the expiry of two years from the end of that financial year, together with the interest due on the whole or, as the case may be, part of the amount of the compulsory deposit which has remained unpaid :

Provided that nothing in this section shall prevent the earlier repayment of the deposit or any instalment thereof together with the interest due in any case in which the Income Tax Officer is satisfied that extreme hardship will be caused unless such repayment is made."

5. Section 8 thus provides that compulsory deposits made under the provisions of the said Act together with interest shall be repaid in five equal annual instalments commencing from the expiry of two years from the end of the financial year in which the deposits were made. The Income Tax Officer, however, as power to permit the earlier repayment of the deposit and interest thereon in cases of extreme hardship. The above provision makes it clear that what is repayable to the assessee is the whole of the amount of deposit with interest standing to his credit in the compulsory deposit scheme account. The whole of the amount standing to his credit in that account would, therefore, form part of his "assets" within the meaning of section 2(e) of the Wealth-tax Act, 1957. The question of discounting the value thereof does not arise.

6. In the above view of the matter, the second question is answered in the negative and in favour of the Revenue.

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