

Commissioner Of Wealth Tax, Gujarat, ... vs Vadilal Lallubhai Etc on 21 October, 1983

Equivalent citations: 1984 AIR 157, 1984 SCR (1) 485, 1983 (4) SCC 697, AIR 1984 SUPREME COURT 157, 1983 TAX. L. R. 1654, (1983) 37 CURTAXREP 277, 1984 UJ (SC) 100, 1983 (15) TAX LAW REV 405, (1983) 15 TAXMAN 26, 1984 ALL TAX J 199, 1984 UPTC 90, 1984 SCC (TAX) 8, 1983 TAXATION 71 (3) 250, (1984) 145 ITR 7, (1984) 12 ITC 123

Author: R.S. Pathak

Bench: R.S. Pathak, E.S. Venkataramiah

PETITIONER:

COMMISSIONER OF WEALTH TAX, GUJARAT, AHMEDABAD

Vs.

RESPONDENT:

VADILAL LALLUBHAI ETC.

DATE OF JUDGMENT 21/10/1983

BENCH:

PATHAK, R.S.

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VENKATARAMIAH, E.S. (J)

CITATION:

1984 AIR 157

1984 SCR (1) 485

1983 SCC (4) 697

1983 SCALE (2) 821

ACT:

Wealth Tax Act, 1957 -sec. 2(m)-Definition of 'net wealth'-Interpretation of. Income tax, wealth tax and gift tax liabilities are debts on the valuation date and deductions in respect of those liabilities are to be allowed on the basis of their final quantification on assessment.

HEADNOTE:

The assessee while computing his net wealth claimed a deduction in respect of debts which included amounts representing estimated liabilities on account of income tax, wealth tax and gift tax. The Wealth Tax Officer rejected the

claim on the ground that as those liabilities were claimed on the basis of an estimate they could not be regarded as debts owed on the valuation date. In appeal the Appellate Assistant Commissioner allowed part of the deductions claimed. The Revenue's appeal to the Appellate Tribunal was dismissed. On a reference being made the High Court held against the Revenue. In this Court the Revenue contended that on a true construction of sec. 2 (m) of the Wealth Tax Act defining the expression "net wealth" the tax liability disclosed by the assessee in his returns should be taken as representing the debts owed by the assessee on the valuation date.

Dismissing the appeals,

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HELD: It is settled law that an income tax liability becomes crystallized on the last day of the previous year corresponding to the particular assessment year, and a wealth tax liability becomes crystallized on the valuation date corresponding to the particular assessment year. In each case the liabilities are perfected debts on the last day of the previous year or the valuation date, as the case may be. Likewise, a gift tax liability becomes crystallized, and therefore a perfected debt, on the last day of the previous year relevant to the particular assessment year. [487 F-G; 488 A]

Kesoram Industries and Cotton Mills Ltd. v. Commissioner of Wealth Tax (Central), Calcutta, (1966) 59 I.T.R. 767; H.H. Setu Parvati Bayi v. Commissioner of Wealth Tax, Kerala, (1968) 69 I.T.R. 864; and Commissioner of Wealth Tax, Madras v. K.S.N. Bhatt, Civil Appeals Nos. 384 to 387 of 1978, Judgment delivered on October 21, 1983 referred to.

When, in the course of a wealth tax assessment, the assessee makes a claim to deduction on account of income tax, wealth tax and gift tax liabilities

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subsisting as debts owed by him on the valuation date, it is the final quantification of the particular tax liability which must be taken into account. Where the wealth tax assessment so made is carried in appeal, there is no doubt that the appellate authority will take into account the ultimate quantification of the tax liability even though such ultimate quantification has been reached after the relevant valuation date and during the pendency of the wealth tax appeal. [488 F-G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1524-47 of 1973.

From the Judgment and Order dated 13.12.1972 of the Gujarat High Court in Wealth Tax References Nos. 6 to 11, 13, 15, 17, 18, 22,24 and 25 of 1971, 34, 39, and 40 of 1970, 20 and 42 of 1971, 22, 35, 41,42,43 & 38 of 1970.

S.C. Manchanda, B.B. Ahuja and Miss A. Subhashini for the Appellant.

F.S. Nariman, Mrs. A.K. Verma and K.J. John for the Respondents.

The Judgment of the Court was delivered by PATHAK, J: These appeals are directed against the judgment of the Gujarat High Court disposing of a number of wealth tax references and answering the following question against the Revenue in each reference:-

"Whether in computing the net wealth of the assessee, the amount deductible in respect of liability of tax for any year for which the assessment is the completed after the valuation date is the liability as ascertainable on the valuation date or the actual amount of tax subsequently assessed ?"

The facts are substantially similar for different appeals and therefore it will be sufficient to set forth the facts in one of them alone. In Civil Appeal No. 1524 of 1973 the facts are these.

In the computation of his net wealth for the assessment year 1962-63, the corresponding valuation date being March 31, 1962, the assessee claimed a deduction in respect of debts which included amounts representing estimated liabilities on account of income tax and wealth tax for the assessment year 1962-63. The Wealth Tax Officer rejected the claim on the ground that as those liabilities were claimed on the basis of an estimate they could not be regarded as debts owed on the valuation dates. In appeal before the Appellate Assistant Commissioner of Wealth Tax the assessee claimed the deduction of a larger sum on account of income tax, wealth tax and gift tax liabilities. The Appellate Assistant Commissioner scrutinised the data placed before him and allowed part of the deductions claimed. The Revenue now appealed to the Appellate Tribunal, and contended that the deductions on account of income tax, wealth tax and gift tax liabilities for the assessment year 1962-63 should have been allowed on the basis of the respective returns filed by the assessee and not on the basis of the final assessment as the assessment orders were made after the valuation date. The Appellate Tribunal rejected the contention and dismissed the appeal. At the instance of the Revenue, the Appellate Tribunal referred the case to the Gujarat High Court for its opinion on the question of law set forth earlier. Similar references were made in other cases, and all of them were disposed of by a common judgment of the High Court dated December 13, 1972. The High Court, relying on its earlier judgment in Commissioner of Wealth Tax v. Kantilal Manilal⁽¹⁾ held that the deduction admissible in computing the net wealth of the assessee must be calculated on the basis of the tax as finally determined on assessment though the assessment may have been made subsequent to the valuation date, and not on the basis of tax computed in accordance with the returns filed by the assessee.

In these appeals, it is contended on behalf of the Revenue that the High Court has erred, and that on a true construction of s. 2 (m) of the Wealth Tax Act defining the expression "net wealth" the tax

liability disclosed by the assessee in his returns should be taken as representing the debt owed by the assessee on the valuation date. Now, it is settled law that an income tax liability becomes crystallized on the last day of the previous year corresponding to the particular assessment year, and a wealth tax liability becomes crystallized on the valuation date corresponding to the particular assessment year. In each case the liabilities are perfected debts on the last day of previous year or the valuation date, as the case may be. See *Kesoram Industries and Cotton Mills Ltd. v. Commissioner of Wealth Tax (Central), Calcutta*(2) and *H.H. Setu Parvati Bayi v. Commissioner of Wealth Tax, Kerala*.(3) Likewise, we think a gift tax liability becomes crystallized, and therefore a perfected debt, on the last day of the previous year relevant to the particular assessment year. See *Commissioner of Wealth Tax, Madras v. K.S.N. Bhatt* (1) The object and purpose of the assessment procedure prescribed by the relevant tax statute, be it the Income Tax Act, the Wealth Tax Act or the Gift Tax Act, is to quantify the precise amount of the tax liability. The process is initiated ordinarily by the assessee filing a tax return, and thereupon the assessment machinery swings into motion. The tax return is scrutinised by the assessing authority and in accordance with the procedure detailed in the relevant statute the assessing authority proceeds to determine the true figure, in its opinion, of the assessee's taxable income or taxable wealth or total value of the taxable gifts, depending on whether it is a case of income tax, wealth tax or gift tax. The assessment order made by the assessing authority specifies the assessed income, wealth or value of the gifts, and on that the corresponding tax liability is computed followed by a notice of demand. The assessment order may be subjected to consideration in appeal before the Appellate Assistant Commissioner and thereafter the case may be carried in second appeal to the Appellate Tribunal, in reference to the High Court and ultimately in appeal before this Court. At every stage, the endeavour of the authority, tribunal or court is to adjudicate on questions which will lead in the final result to a true determination of the tax liability. There may be cases where the assessment finally made may be reopened in accordance with the procedure and subject to the conditions stated in the relevant statute. There may also be cases where a rectification of apparent errors is effected pursuant to jurisdiction granted by the relevant statute. Both these proceedings are similarly intended for the true quantification of the tax liability. When, in the course of a wealth tax assessment, the assessee makes a claim to deduction on account of income tax, wealth tax and gift tax liabilities subsisting as debts owed by him on the valuation date, it is the final quantification of the particular tax liability which must be taken into account. Where the wealth tax assessment so made is carried in appeal, we have no doubt that the appellate authority will take into account the ultimate quantification of the tax liability, even though such ultimate quantification has been reached after the relevant valuation date and during the pendency of the wealth tax appeal.

Upon the aforesaid considerations, we are of opinion that the High Court has acted rightly in holding that in computing the net wealth of the assessee the deduction admissible must be calculated on the basis of the tax as finally quantified on assessment even though the assessment may have been made subsequent to the valuation date. Once an assessment order is passed, the data disclosed by the assessee in his return is no longer determinative of the assessee's tax liability becomes in law it stands superseded by the assessment order.

The appeals are dismissed with costs.

H.S.K.

Appeals dismissed.

