

The Commissioner Of Wealth Tax, Kanpur vs J.K. Jute Mills Co. Ltd. on 7 January, 1977

Equivalent citations: AIR1977SC1216, [1977]110ITR642(SC), (1977)1SCC360, AIR 1977 SUPREME COURT 1216, 1977 (1) SCC 360, 1977 TAX. L. R. 648, 1977 (1) SCJ 206, 110 ITR 642, 1977 (1) ITJ 126, 1977 SCC (TAX) 178, 1977 UPTC 266

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Bench: H.R. Khanna, P.S. Kailasam

JUDGMENT

H.R. Khanna, J.

1. This appeal by special leave is against the order of the Allahabad High Court whereby the High Court only partially allowed an application filed by the appellant under Section 27(3) of the Wealth Tax Act.

The assessee-respondent is a company and the matter relates to the wealth tax assessment for the assessment years 1958-59 and 1959-60, the relevant valuation dates for which were December 31, 1957 and December 31, 1958 respectively. The income of the respondent-company pertaining to the years 1939 to 1946 was the subject-matter of investigation by the Income Tax Investigation Commission. The Commission found that there had been concealment of the income of the assessee to the tune of Rs. 59,48,714. Certain provisions of the Taxation of Income (Investigation Commission) Act were struck down by this Court and the income found by the Investigation Commission as having escaped assessment was not assessed in the hands of the respondent. The income-tax authorities later proceeded to assess the assessee under Section 34 of the Indian Income-tax Act, 1922. The assessee thereupon filed a petition before the Central Board of Revenue for settlement. A settlement was then arrived at and as a result thereof the concealed income of the assessee pertaining to the years 1939 to 1946 was assessed at Rs. 59,48,714. The assessee's liability for income tax on account of the aforesaid concealed income was determined to be Rupees 18,61,788. The order on the settlement application was made on November 30, 1960.

2. Two questions amongst others were agitated before the wealth tax authorities. One question was whether the sum of Rs. 59,48,714 could be included in computing the assessee's wealth on the two relevant valuation dates. The other question was whether the assessee-respondent was entitled to claim the sum of Rs. 18,61,788 as income tax liability in terms of the settlement, and as such a debt owed by the respondent in the computation of its wealth under the Wealth Tax Act. The Tribunal

held in respect of both the above questions in favour of the assessee and against the revenue. The Tribunal also declined to refer under Section 27 of the Wealth Tax Act to the High Court questions of law, which were said to arise out of its order in respect of the above two matters. The appellant there upon moved the High Court under Section 27(3) of the Wealth Tax Act. The High Court directed the Tribunal to refer the following question relating to the item of Rupees 59,48,714 to that court:

Whether on the facts and in the circumstances of the case the Tribunal was justified in deleting the amount of Rs. 59,48,714/- from the assessment under the Wealth Tax Act?

3. The application of the appellant in respect of the question relating to Rs. 18,61,788 was rejected.

4. We have heard Mr. Sen on behalf of the appellant and Mr. Nariman on behalf of the respondent, and are of the view that a question of law does arise in respect of the amount of Rs. 18,61,788. We accordingly accept the appeals and direct the Tribunal to refer the following question also to the High Court under Section 27 of the Wealth Tax Act:

Whether on the facts and in the circumstances of the case, the Tribunal was justified in deleting the sum of Rs. 18,61,788 in computing the wealth of the assessee in each of the assessment years 1958-59 and 1959-60?

The parties shall bear their own costs throughout.