

# Commissioner Of Wealth-Tax, West ... vs Aluminium Corporation Of India Ltd. on 7 August, 1969

**Equivalent citations:** [1970]78ITR483(SC)

**Author:** V. Ramaswami

**Bench:** A.N. Grover, J.C. Shah, V. Ramaswami

## JUDGMENT

V. Ramaswami, J.

1. This appeal is brought from the judgment of the Calcutta High Court dated January 29, 1965, in Wealth-tax Matter No. 69 of 1963, by certificate granted under Section 27(1) of the Wealth-tax Act, 1957 (hereinafter referred to as the " Act ").

2. The respondent is a public company doing business in the manufacture of aluminium goods. For the accounting period ending March 31, 1956, the respondent revalued its fixed assets and showed them in its balance-sheet as on March 31, 1956, at an increased value, creating a capital reserve of Rs. 1,73,92,556, corresponding to the increase in value after revaluation. In their report to the shareholders for the year ended March 31, 1956, the directors said :

During the year under review, your company's block assets have been revalued so as to indicate the true picture of their value and evaluators have given due consideration to depreciation which the buildings and plants and machinery have already been subjected to.

3. In its balance-sheet as on March 31, 1957, that is, the corresponding valuation date for the assessment year 1957-58 for the purposes of wealth-tax, the values of the fixed assets, viz., lands, buildings and plant and machinery were shown respectively as Rs. 5,10,657, Rs. 1,04,74,800 and Rs. 1,78,32,641. The increase in the value of the fixed assets owing to revaluation continued to remain unaltered. But these values were arrived at after providing for some depreciation. In assessing the respondent to wealth-tax for the assessment year 1957-58, the Wealth-tax Officer applied the global method of valuation sanctioned by Section 7(2)(a) of the Act and adopted the values of the fixed assets as shown by the respondent in its balance-sheet as on March 31, 1957. The Wealth-tax Officer rejected the respondent's contention that the revaluation arose in order to determine the replacement value of assets for the purpose of insurance, because that reason was not mentioned in the directors' report and the assets had been insured since 1952 and the "reinstatement value

clause" was in existence even at that time. The Wealth-tax Officer did not also accept the respondent's contention that the written down value as computed for income-tax purposes before revaluation should have been adopted as the value of the assets. Nor did he allow depreciation at rates applicable for income-tax purposes for the period from the date of revaluation up to March 31, 1957, since he found that the values stated in the balance-sheet were arrived at by the respondent after taking into consideration such depreciation as it considered to be reasonable. In appeal, the Appellate Assistant Commissioner confirmed the assessment. On further appeal the Appellate Tribunal approved of the action of the wealth-tax authorities in adopting the values as stated in the balance-sheet of the company as on March 31, 1957, incorporating the revaluation of the fixed assets as on March 31, 1956. The Appellate Tribunal, however, held that the respondent was entitled to an allowance of normal depreciation at the rates prescribed for income-tax on the recomputed value of the assets on account of wear and tear during the period that elapsed between the date of revaluation and March 31, 1957. On the applications of both the parties, the Appellate Tribunal stated a case to the High Court on the following questions of law :

(1) Whether, on the facts and in the circumstances of the case, in determining the net value of the assets of the assessee-company under Section 7(2) of the Wealth-tax Act, the value of the company's fixed assets as shown in its balance-sheet as on the valuation date should have been substituted by the written down value of these assets as per the company's income-tax record ?

(2) If the answer to the first question is in the negative, whether, on the facts and in the circumstances of the case, for the purposes of determining the net value of the assets of the company under Section 7(2) of the Wealth-tax Act, an adjustment on account of normal depreciation of the fixed assets from the date of revaluation of the assets to the valuation date was justified ?

4. By its judgment dated January 29, 1965, the High Court answered the first question in the affirmative and in favour of the respondent following its decision in Commissioner of Wealth-tax v. Tungabhadra Industries Ltd. . The High Court 'further held that in view of the answer to the first question, the second question did not arise.

5. Section 7 of the Act, stood as follows at the material time :

(1) The value of any asset, other than cash, for the purposes of this Act, shall be estimated to be the price which, in the opinion of the Wealth-tax Officer, it would fetch if sold in the open market on the valuation date.

(2) Notwithstanding anything contained in Sub-section (1), -

(a) where the assessee is carrying on a business for which accounts are maintained by him regularly, the Wealth-tax Officer may, instead of determining separately the value of each asset held by the assessee in such business, determine the net value of the assets of the business as a whole having regard to the balance-sheet of such

business as on the valuation, date and making such adjustments therein as the circumstances of the case may require....

6. In *Kesoram Industries and Cotton Mills Ltd. v. Commissioner of Wealth-tax*., the appellant-company had shown in its balance-sheet for the period ending March 31, 1957, the appreciated value of revaluation of its assets, after making certain adjustments, at Rs. 2,60,52,357, and had introduced in the capital reserve surplus a corresponding balancing figure of Rs. 1,45,87,000 representing the increase in the value of the assets upon revaluation. For the purposes of wealth-tax the officer took the sum of Rs. 2,60,52,357, as the value of the assets, whereas the company contended that an adjustment ought to be made in view of the increase in the value shown in the balance-sheet on revaluation. It was held by this Court that as no one could know better the value of the assets than the assessee himself, the Wealth-tax Officer was justified in accepting the value of the assets at the figure shown by the appellant-company itself. It was open to the appellant-company to convince the authorities that that figure was inflated for acceptable reasons; but it did not make any such attempt. It was also open to the Wealth-tax Officer to reject the figure given by the appellant-company and to adopt another figure if he was, for sufficient reasons, satisfied that the figure given by the appellant was wrong.

7. It is evident that the High Court was in error in holding that the case was governed by the principle laid down in *Tungbhadra Industries case* [1966] 60 I.T.R. 447 (Cal). As we have already shown, Section 7(2)(a) of the Act contemplates that the book-value in the balance-sheet should be taken as the primary basis of valuation and if any adjustment is required the Wealth-tax Officer may make such adjustments in the valuation as given in the balance-sheet as the circumstances of the case require it to be done. In the present, case, the Appellate Tribunal has proceeded on the footing that the written down value should be treated as the basis of valuation in the first instance and has, therefore, misdirected itself in law. The High Court has committed the same error in answering the first question in the affirmative, in favour of the assessee. It is, therefore, necessary that the case must go back to the High Court for rehearing according to the principle of law laid down by this Court in *Kesoram Industries case* . For these reasons we set aside the judgment of the High Court dated January 29, 1965, and remand the case for rehearing and determination in accordance with law. As the first question stands at present the answer must be given in the negative but it is open to the High Court to reframe the question if it considers such a course necessary.

8. There will be no order with regard to costs in this appeal.