

PETITIONER:
COMMISSIONER OF WEALTH TAX, CALCUTTA

Vs.

RESPONDENT:
SMT. ANJAMLI KHAN

DATE OF JUDGMENT 06/11/1990

BENCH:
RANGNATHAN, S.
BENCH:
RANGNATHAN, S.
SINGH, K.N. (J)

CITATION:
1991 AIR 2023 1990 SCR Supl. (2) 563
1991 SCC Supl. (2) 681 JT 1990 (4) 584
1990 SCALE (2) 934

ACT:

Wealth Tax Act, 1957: Section 2(e)--Compensation receivable on acquisition of Estate--Whether 'asset' includible in the net wealth.

West Bengal Estates Acquisition Act, 1953: Section 17(1)--Compensation receivable on acquisition--Whether an 'asset' liable to Wealth Tax.

HEADNOTE:

The Respondent-assessee owned vast agricultural properties which came to be vested in the State Government by virtue of the provisions of the West Bengal Estates Acquisition Act, 1953. The assessee was entitled to receive compensation in respect of those lands. For the assessment years 1957-58, 1958-59 and 1959-60, the Wealth Tax Officer required the assessee to furnish particulars of the compensation due from the Government. The assessee was unable to give the particulars, but stated that his agricultural income from the lands used to be assessed at Rs.1,00,000 per annum and that the taxes thereon amounted to Rs.20,000 per annum. Taking the net agricultural income at Rs.80,000 and applying the provisions of Section 17(1) of the Acquisition Act the Wealth Tax Officer estimated the compensation payable to the assessee at Rs.3,40,000. Deducting the interim compensation received by the assessee, he estimated the amount of compensation at Rs.3,25,000 for the assessment year 1957-58 and at Rs.3,00,000 each for the assessment years 1958-59 and 1959-60.

The assessee preferred appeals to the Appellate Assistant Commissioner on the ground that the compensation receivable was not an 'asset' under the Wealth Tax Act. The appeal was dismissed. Aggrieved, the assessee appealed to the Tribunal. The Tribunal allowed the appeals. On a request from the Revenue, the Tribunal referred the question of includibility of the estimated compensation amounts in the net wealth of the assessee. The High Court answered the question in favour of the assessee.

Against the said decision of the High Court the Revenue has preferred these appeals claiming that the decision of this Court in Pandit

Lakshmi Kant Jha v. CWT Bihar & Orissa, [1973] 90 ITR 565 governs the issue.

Allowing the appeals, this Court,

HELD: 1.1. The right to receive compensation in respect of the lands acquired under the West Bengal Estates Acquisition Act, 1953 is an asset which should be included in the net wealth of the assessee. There is no difference in principle between the Bihar Land Reforms Act, 1950 and the West Bengal Estates Acquisition Act, 1953. The High Court and the Tribunal erred in holding that there was no asset the value of which could be included in the net wealth of the assessee by reference to the lands of the assessee which vested in the State Government.

1.2. The reference to the High Court not only raised the question whether there was any asset capable of inclusion in the net wealth but also the question as to whether the sums estimated by the Wealth Tax Officer on this account can be included in the net wealth of the assessee as on the relevant dates. Neither the Tribunal nor the High Court have touched upon this aspect in view of their conclusion that there was no "asset" at all capable of inclusion in the estate.

Pandit Lakshmi Kant Jha v. Commissioner of Wealth Tax, Bihar & Orissa, [1973] 90 ITR 97; Mrs. Khorshed Shapoor Chenat v. Assistant Controller of Estate Duty, [1980] 122 ITR 21; Joginder Singh Ors. v. State of Punjab & Anr., [1985] 1 SCC 231; relied on.

Commissioner of Wealth Tax v. O.C. Mahatab, [1970] 78 ITR 214; referred to.

2. It would not be necessary to determine the question whether the valuation of the said asset at the figures taken by the wealth-tax officer is correct or not. This is a question which will have to be considered and decided by the Tribunal while disposing of the matter in conformity with this judgment. The Wealth Tax Officer has included in the net wealth the entire amount of the compensation that would eventually become payable to the assessee without making any allowance, as was done in Pandit Lakshmi Kant Jha's case, for the circumstance that the compensation was payable at a future date. It is clear that, where the compensation is to be determined and is payable at a date much later than the valuation date, the value of the assessee's right to receive the compensation can only be the present value (i.e. the

565 value as on the valuation date) of the amount that may be determined and paid as compensation in future. It cannot be equal to the amount of compensation payable under the Act. The present value of the future compensation will, therefore, have to be determined on a consideration of all relevant aspects that may be put forward before the Tribunal.

Pandit Lakshmi Kant Jha v. Commissioner of Wealth Tax, Bihar & Orissa, [1973] 90 ITR 97, referred to.

3. In the instant case, the Tribunal ought to have held that the value of the assessee's right to receive compensation under the provision of the West Bengal Estates Acquisition Act, as on the relevant valuation dates, had to be included in the assessee's net wealth for the assessment years 1957-58, 1958-59 and 1959-60. However, the amounts of compensation determined by the Wealth Tax Officer cannot be included in the net wealth; but only the value, as on the relevant valuation dates, of the assessee's right to receive compensation estimated in accordance with proper principles can be included in the net wealth of the assessee. What such estimated value should be will have to be decided by the Tribunal after giving both the parties an opportunity to put

forward their respective contentions.

JUDGMENT:

JUDIS