

H.H. LAKSHMI BAI AND ANR. ETC. ETC.
v.
COMMISSIONER OF WEALTH TAX ETC. ETC.

FEBRUARY 2, 1994

[B.P. JEEVAN REDDY AND B.L. HANSARIA, JJ.]

Wealth Tax Act, 1957: Section 5(1-A)—Exemption of investments in National Defence Certificates, Defence Deposit Certificates etc.—Whether could be granted over and above the limit of Rs.1,50,000 prescribed by the main provision viz. S. 5(1).

The controversy in these appeals arose on the interpretation of Section 5(1A) of the Wealth Tax Act, 1957. The question referred to the High Court was whether the appellant-assessee would be entitled to exemption of Rs.70,000 invested by her in National Defence Certificates and Defence Deposit Certificates, which were Part of net wealth under clause (xv)/(xvi) of section 5(1) of the abovesaid Act, in addition to the overall exemption of Rs.1,50,000 granted to her under Section 5(1) of the Act. The High Court held that exemption under S. 5(1A) in respect of such investments could not be granted over and above Rs.1,50,000 which was the limit prescribed by the main provision viz. S.5(1) of the Act because the requirement of the proviso to section 5(1A) was not satisfied. Against this, the assessee preferred the present appeals.

Respondent-Revenue contended that as the assets referred to in the main provision of sub-section (1A) exceeded in the cases at hand Rs.1,50,000 in the aggregate, the exemption limit could have been raised only if the value of assets referred to in clause (xv) or (xvi) held prior to the 1st day of March, 1970 would have exceeded Rs.1,50,000 and that in such a case *only*, the limit of exemption provided by the main provision of sub-section(1A) could have been raised by the amount the assets mentioned in the proviso would have exceeded the sum of Rs.1,50,000.

Dismissing the appeals, this Court

HELD: 1.1. On the language of the proviso to S. 5(1A) of the Wealth Tax Act, 1957 there cannot be two answers. It is settled law that taxation statute in particular has to be strictly construed and that there is no equity

- A in a taxing provision. Though it may be true that strict interpretation of the proviso would cause hardship to small depositors as against the richer ones, it has no relevance. [541-D]

- B 1.2. Where the assets to be included be one referred in clause (xv) or (xvi) of S. 5(1) of the Wealth Tax Act, 1957, the value of the asset "so included" has to exceed the limit of Rs.1,50,000, in which case alone the limit mentioned in section 5(1A) would be raised by the amount the value of such asset exceeds Rs.1,50,000. [541-A]

- C *K.S. Ayodhyanath v. Commissioner of Wealth Tax*, 141 I.T.R. 309 Karnataka; *K.S. Digvijaysinghji v. Commissioner of Wealth Tax*, 141 I.T.R. 313 Gujarat and *Saroja Ravindran v. Commissioner of Wealth Tax*, 177 I.T.R. 302 Madras, approved.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2399-2400 of 1978.

- D From the Judgment and Order dated 21.2.1978 of the Kerala High Court in I.T.R. Nos. 37 & 28/76.

WITH

- E C.A. Nos. 543(NT), 545, 544/94 C.A. Nos. 2303/80, 1370/79, 2076/79, SLP. (C) Nos. 6768/79, 8002/79 and 7537/82.

From the Judgment and Order dated 9.2.1979, 6.11.1978, 5.10.1978 & 9.2.1979 of the Kerala High Court in I.T.R. Nos. 60/77, 61/77, 62/77 & 36 of 1977.

- F Ms. Janki Ramachandran for the Appellants.

B.B. Ahuja, Ms. A. Subhashini and Ranbirschandra for the Respondents.

- G The Judgment of the Court was delivered by

HANSARIA, J. Leave granted in the S.L.Ps.

- H 1. These appeals arise out of judgments of the High Court of Kerala rendered in I.T.R. Case Nos. 28 and 37 of 1976; 30, 60 and 63 of 1977 and 141 of 1979 by which the High Court answered the questions referred to

it at the behest of the Department under the provisions of Wealth Tax Act, 1957, hereinafter the 'Act', in favour of the Department. On being satisfied that the questions answered by it raise a substantial question of law of general importance on which a pronouncement by this Court is necessary, it certified the cases as fit for appeal to this Court on prayer being made by the counsel of the assessee.

2. The question referred to the High Court read as follows:

"Whether on the facts and in the circumstances of the case and on the interpretation of section 5(1A) of the Wealth-tax Act, 1957, the Appellate Tribunal is right in law in holding that the assessee is entitled to exemption of Rs.70,000 invested by her in National Defence Certificates and Defence Deposit Certificates in addition to the overall exemption of Rs.1,50,000 granted to her by the Wealth-tax Officer, under section 5(1) of the Act".

3. The aforesaid was the question which came up for consideration of the High Court in I.T.R. Cases 28 and 37 of 1976. Similar questions were subject matter of other cases referred above. The High Court took the view that as investment in National Defence Certificates and Defence Deposit Certificates attracted, on the facts before it, the proviso to sub-section (1A) of section 5, exemption for the amounts in question (which was Rs.70,000 in the aforesaid two cases, and was below Rs. 1,50,000 in all the cases), could not be granted over and above Rs.1,50,000 which was the limit prescribed by the main provision. It may be stated that investment in aforesaid Certificates would have fallen in clause (xv) of sub-section (1) of section 5 of the Act.

4. The learned counsel for the assessee has assailed the view taken by the High Court whereas the Department's counsel supports the same.

5. The controversy lies within a narrow compass and the answer depends upon the interpretation of Section 5(1A) of the Act. The material part of the section as it stood at the relevant time read as follows:

"Nothing contained in sub-section (1) shall operate to exclude from the net wealth of the assessee any assets referred to in clauses (xv), (xvi), (xxii), (xxiii), (xxiv), (xxv),

A (xxvi), (xxvii), (xxviii), (xxix), (xxx) and (xxxii) not being deposits under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959, to the extent the value thereof exceeds, in the aggregate, a sum of one hundred and fifty thousand rupees:

B Provided that where assets include any assets referred to in clause (xv) or clause (xvi) not being deposits under the Post Office Savings Bank (Cumulative Time Deposit) Rules, 1959, which have been held by the assessee continuously from a date prior to the 1st day of March, 1970 and the value of assets *so included* exceeds the limit of one hundred and fifty thousand rupees by any amount, such limit shall be raised by the said amount".

C

(Emphasis supplied)

D 6. Department's case is that as the assets referred to in the main provision of sub-section (1A) exceeded in the cases at hand Rs.1,50,000 in the aggregate, the exemption limit could have been raised only if the value of assets referred to in clause (xv) or (xvi) held prior to the 1st day of March, 1970 would have exceeded Rs.1,50,000. In such a case *only*, the limit

E the exemption provided by the main provision of sub-section (1A) could have been raised by the amount the assets mentioned in the proviso would have exceeded the sum of Rs.1,50,000.

7. To clear the ground, it may be stated that there is no dispute before us that the net wealth of the assessee as regards the assets referred

F in the clauses specified in the main provision of sub-section (1A) had exceeded Rs.1,50,000. Shri Ahuja, appearing for the Department, brings to our notice (to satisfy our mind in this regard) that even the investment in share in joint stock companies (which would have attracted clause (xxiii) which is one of the clauses specified in respect of (1A) of section 5) was to the extent of Rs.52,93,007, as would appear from the assessment order

G relatable to the year 1973-74. (In other assessment years also investment by the assessee qua specified assets was in excess of Rs.1,50,000.) In such a case the proviso to sub-section (1A) would come into play. We have, therefore, to find out the purport of this proviso.

H 8. Shri Ahuja refers to the expression "so included" used in the

proviso and contends that where the asset to be included be one referred in clause (xv) or (xvi), the value of the asset "so included" has to exceed the limit of Rs.1,50,000, in which case alone the limit would be raised by the amount the value of this asset exceeds Rs.1,50,000. No effective answer to this submission has been advanced by Ms. Ramachandran. Shri Ahuja, on the other hand, submits that Kerala High Court is not the only one to interpret section 5(1A) as above inasmuch as the same view has been taken by other High Court in (1) *K.S. Ayodhyanath v. Commissioner of Wealth Tax*, 141 I.T.R. 309 Karnataka; (2) *K.S. Digvijaysinghji v. Commissioner of Wealth Tax*, 141 I.T.R. 313 Gujarat; and (3) *Saroja Ravindran v. Commissioner of Wealth Tax*, 177 I.T.R. 302 Madras.

8. On the language of the proviso, as it is, there cannot be two answers, according to us also. It is settled law that taxation statute in particular has to be strictly construed and that there is no equity in a taxing provision. It is because of this that the submission of Ms. Ramachandran that strict interpretation of the proviso would cause hardship to small depositors as against the richer ones, even if true, has no relevance.

9. In the aforesaid view of the matter, we do not read any legal infirmity in the impugned judgments of the High Court. The appeals are, therefore, dismissed. No order as to costs.

G.N.

Appeal dismissed.