Ahmed Ibrahim Sahigra Dhoraji

Vs

Commissioner of Wealth-Tax, Gujarat

Civil Appeals Nos. 1217-1222 of 1973

(R.S. Pathak, E.S. Venkataramiah JJ)

07.04.1981

JUDGMENT

VENKATARAMIAH J. -

On the basis of a certificate granted under s. 29 (1) of the W. T. Act, 1957 (hereinafter referred to as "the Act"), the appellant has filed these appeals against the judgment and order dated December 21, 1972, of the High Court of Gujarat in W. T. R. No.2 of 1969. The questions referred to the High Court under s. 27 of the Act by the Income-tax Appellate Tribunal, Ahmedabad Bench, read thus :

> "1. Whether, on the facts and in the circumstances of the case, the liability in respect of income-tax payable on the concealed income disclosed by the assessee pursuant to section 68 of the Finance Act, 1965, is deductible under section 2 (m) of the Wealth-tax Act, 1957, in computing the net wealth of the assessee for the assessment years 1959-60, 1960-61, 1961-62, 1962-63, 1963-64 and 1964-6 ?
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> (2) Whether the Tribunal was right in holding that the liability to pay tax on the amount disclosed under section 68 of the Finance Act, 1965, arose not under that Finance Act but under section 3 of the Indian Income-tax Act, 192 ?

Having regard to the assessment years in question, the second question should be read as including within its scope also the question whether the Tribunal was right in holding that the liability to pay tax on the amount disclosed under s. 68 of the Finance Act, 1965, arose not under that Finance Act but under s. 4 of the I. T. Act, 1961.

The assessee, who is the appellant in these appeals, had been assessed on the basis of his return of net wealth and the statements filed therewith in the status of an individual to wealth-tax under s. 16 (3) of the Act during the assessment years 1957-58 to 1964-65 on various dates between January 15, 1960, and July 14, 1964. Subsequently, the assessee made a disclosure under s. 68 of the Finance Act, 1965 (hereinafter referred to as "the Finance Act"), of Rs. 7,00,000 which had been shown as having been covered by some hundi transactions with a concern known as M/s. Abdul Razack & Co. in his books of account at the Bombay branch of his business. Along with the declaration the assessee filed a statement that this concealed income had been earned by him during the assessment years 1957-58 to 1964-65. He, however, did not allocate the total sum disclosed amongst different assessment years but showed it in a lump sum. The amount of income-tax was computed at 60% of the total concealed income and it was paid as contemplated under s. 68 of the Finance ACt. The WTO thereafter reopened the assessments of the assessee to wealth-tax for the assessment years 1957-58 to 1964-65 on the ground that he had reason to believe that certain wealth of the assessee

had escaped assessment during the said years and that his belief was founded on the disclosure made by the assessee under s. 68 of the Finance Act. We are concerned in these appeals only with the assessment years 1959-60 to 1964-65. On scrutiny it was found on the basis of peak cash credits in each assessment year that the amounts covered by hundis were as under :

> #Assessment years Peak cash credits Rs.1959-60 4,57,4651960-61 5,59,8231961-62 6,38,3251962-63 6,82,9741963-64 7,01,5781964-65 7,01,578##

As can be seen from the above statement, the assessee had substantial sums with him in the years in question which had not been disclosed earlier. Since these amounts constituted the wealth which was liable to tax on the respective valuation dates, the assessee filed returns of wealth for the above mentioned years in compliance with the notices issued to him and in the course of the assessment proceedings he claimed the deduction for income-tax payable by him in respect of the sums which had been progressively earned by him from year to year and which were liable to income-tax under the relevant income-tax law in force during the years relying upon the decision of this court in Kesoram Industries and Cotton Mills Ltd. v. CWT [1966] 59 ITR 767. The WTO however, held that since in his balance-sheets the assessee had not shown the liability to pay income-tax, the deduction of the amounts claimed could not be allowed in any of the assessment years and accordingly the orders of reassessment were passed by him after disallowing the claim made by the assessee. He, however, included the sums mentioned in the above statement in the net wealth of the respective assessment years and determined the wealth-tax payable by the assessee. The appeals filed by the assessee against the orders of the WTO before the AAC were dismissed. On further appeal to to the Income-tax Appellate Tribunal, the Tribunal held that the deduction claimed in respect of each assessment year was in truth and substance a liability under the Indian I. T. Act, 1922, or the I. T. Act, 1961, as the case may be, and not a new liability created by the Finance Act, and, therefore, it constituted a "debt owed" by the assessee on the respective valuation dates within the meaning of s. 2 (m) of the Act and that the deduction claimed should be allowed while computing the net wealth of the assessee. Accordingly, the Tribunal allowed the appeals of the assessee. Thereafter, at the instance of the CWT, the Tribunal referred under s. 27 of the Act the two questions mentioned above to the High Court. After hearing the parties, the High Court answered both the questions in the negative and in favour of the revenue by its judgment dated December 21, 1972. On a certificate granted by the High Court under s. 29 (1) of the Act, the assessee has come up in appeal to this court.

The relevant part of s. 2 (m) of the Act reads :

> "2 (m).'Net wealth ' means the amount by which the aggregate value computed in accordance with the provisions of this Act of all the assets, wherever located, belonging to the assessee on the valuation date, including assets required to be included in his net wealth as on that date under this Act, is in excess of the aggregate value of all the debts owed by the assessee on the valuation date other than-....."

In the case of Kesoram Industries and Cotton Mills Ltd. [1966] 59 ITR 767, this court has held that income-tax other than that falling under cl. (iii) of s. 2 (m) of the Act payable on the valuation date is a debt owed by the assessee and hence is deductible from the total wealth of the assesse while determining the net wealth for the purpose of levying wealth-tax.

The principal question which arises for consideration in these appeals relates to the true character of the tax paid by the assessee in the proceedings under s. 68 of the Finance Act and the applicability

of the ratio of the decision of this court in the case of Kesoram Industries and Cotton Mills Ltd. [1966] 59 ITR 767. Since it is contended by the assessee that the tax so paid was the tax which he was liable to pay under the relevant income-tax law in force during the assessment years in question and it is urged by the department that the said payment was in discharge of a liability created for the first time by the Finance Act, it is necessary to examine the provisions of s. 68 of the Finance Act in some detail, in so far as they relate to the question involved in this case. The relevant part of s. 68 of the Finance Act, which came into force on March 1, 1965, reads :

> "68. Voluntary disclosure of income. -(1) Where any person makes a declaration in accordance with sub-section (2) in respect of the amount representing income_
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> (a) which he has failed to disclose in a return of income for any assessment year filed by him before the 1st day March, 1965, under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax ACt, 1961 (XLIII of 1961), or
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> (b) which has escaped assessment for any assessment year for which an assessment has been made before the 1st day of March, 1965, under either of the said Acts, or
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> (c) for the assessment of which no proceeding under either of the said Acts has been taken before the 1st day of March, 1965,

he shall, notwithstanding anything contained in the said Acts, be charged income-tax at the rate specified in sub-section (3) in respect of the amount so declared if he, -

> (i) pays the amount of income-tax as computed at the said rate, or
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> (ii) furnishes adequate security for the payment thereof in accordance with subs-section (4) and undertakes to pay such income-tax within a period, not exceeding six months, from the date of the declaration as may be specified by him therein, or
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> (iii) on or before the 31st day of May, 1965, pays such amount as is not less than one-half of the amount of income-tax as computed at the said rate or furnishes adequate security for the payment thereof in accordance with sub-section (4), and in either case assigns any shares in, or debentures of, a joint stock company or mortgages any immovable property, in favour of the President of India by way of security for the payment of the balance, and undertakes to pay such balance within the period referred to in clause (ii).
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> (2) The declaration shall be made to the Commissioner, and shall specify the period required to be specified under clause (ii) of sub- section (1), contain the name, address and signature of the person making the declaration and also full information in respect of the following matters, namely :-
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> (a) Whether he was assessed to income-tax or not and, if assessed, the name of the Income-tax Circle in which he was assessed.
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> (b) The amount of income declared, giving where available, details of the financial year or years in which the income was earned and the amount pertaining to each such year.

(c) Whether the amount declared is represented by cash (including bank deposits), bullion, investments in shares, debts due from other persons, commodities, or any other assets, and the name in which it is held and location thereof :

Provided that the declaration shall be of no effect unless it is made after the 28th day of February, 1965, and before the 1st day of June, 1965.

(3) The rate of income-tax chargeable in respect of the amount referred to in sub-section (1) shall be sixty per cent. of such amount :

Provided that if before the 1st day of April, 1965, the tax on the amount declared is paid by the declarant at the rate of fifty-seven per cent. of such amount, he shall not be liable to pay any further tax on such amount.

(4) A person shall not be considered to have furnished adequate security for the payment of the tax for the purposes of sub-section (1) unless the payment is guaranteed by a scheduled bank or the person makes an assignment, in favour of the President of India, of any security of the Central of State Government.

Explanation. -For the purposes of this sub-section, where an assignment of Government securities is made in favour of the President, the amount covered by such assignment shall be the market value of the securities on the date of the assignment.

(5) Any amount of income-tax paid in pursuance of a declaration made under this section shall not be refundable in any circumstances, and no person who has made the declaration shall be entitled, in respect of any amount so declared or any amount of tax so paid, to reopen any assessment or reassessment made under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, 1961 (XLIII of 1961), or the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits TAx Act, 1947 (XXI of 1947), or the Super Profits Tax Act, 1963 (XIV of 1963), or the Companies (Profits) Surtax Act, 1964 (VII of 1964), or claim any set-off or relief in any appeal, reference, revision or other proceeding in relation to any such assessment or reassessment.

(6) (a) Any amount declared by any person under this section in respect of which the tax referred to in sub-section (3) is paid shall not be included in his total income for any assessment under any of the Acts mentioned in sub-section (5) if he credits in the books of account, if any, maintained by him for any source of income or in any other record, the amount declared as reduced by the tax paid thereon under this section..."

Section 68 (1) of the Finance Act provides that where any person makes a declaration in accordance with s. 68 (2) in respect of any amount representing income which he has failed to disclose in his return or which has escaped assessment for any assessment year for which an assessment has been made before March 1, 1965, under either of the two Acts, namely, the Indian I. T. Act, 1922, and the I. T. Act, 1961 or for the assessment of which no proceeding is taken before March 1, 1965, he shall, notwithstanding anything contained in the said Acts, be charged income-tax at the rate specified in sub-s. (3) thereof in respect of the amount so declared. If he pays the amount of income-tax as computed at the said rate or furnishes adequate security for

the payment thereof in accordance with sub-s. (4) thereof and undertake to pay such income-tax within the period specified in the section, he would be absolved from the liability under the relevant law of income- tax. The declaration should, however, be filed with the particulars mentioned in s. 68 (2). Section 68 (3) provides that the rate of income-tax chargeable in respect of the amount referred to in the declaration shall be sixty per cent. of such amount provided that if the tax is paid within April 1, 1965, the tax payable would be fifty- seven per cent. Sub-section (5) s. 68 of the Finance Act provides that any amount of income-tax paid in pursuance of a declaration made under that section shall not be refundable in any circumstances nor a declarant is entitled in respect of any amount declared or tax paid thereon to reopen any assessment or reassessment made under the Indian I. T. Act, 1922, or the I. T. Act, 1961, or any other Act mentioned therein. He cannot also claim any set-off or relief in any appeal reference, revision or other proceeding in relation to any such assessment or reassessment. Clause (a) of sub-s. (6) of s. 68 grants immunity from proceedings under the Acts mentioned in s. 68 (5) to the assessee by providing that any amount declared by any person under s. 68, in respect of which the tax referred to in sub-s. (3) thereof is paid, shall not be included in his total income for any assessment under any of the assessments made under any of the Acts mentioned in s. 68 (5) if he credits in the books of accounts, if any, maintained by him for any source of income or in any other record, the amount declared as reduced by the tax paid thereon under s. 68.

On an examination of the several provisions contained in s. 68 of the Finance Act it becomes clear that they had been enacted as a part of the measures adopted with a view to unearthing unaccounted money in the possession of the members of the public on which income-tax had not been paid and also to create an incentive to such persons to make disclosure of their unaccounted incomes and to pay tax thereon at the specified rate without the liability to pay any interest thereon or penalties for no compliance with the law of income-tax. The declaration to be filed by a person under s. 68 is about an amount representing his income earned in an earlier accounting period which has not been subjected to tax in the ordinary course although income- tax was payable in respect of it. If the declarant pays tax at the rate specified in sub-s. (3) of s. 68 he would be absolved from any further liability to tax on such income. The declaration has to be made before the Commissioner and it should contain full information, namely, whether he was assessed to income-tax or not and if assessed, the name of the I. T. Circle in which he was assessed, the amount of income declared giving, where available, details of the financial year or years in which the income was earned and the amount pertaining to each such year and whether the amount declared is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets and the name in which it is held and the location thereof. Section 68 also states at more than one place that what is payable pursuant to a declaration is income-tax. Section 68 (1) contains words such as, "he shall, notwithstanding anything contained in the said Acts be charged income- tax at the rate specified in sub-s. (3) ", "if he pays the amount of income-tax at the said rate " and " undertakes to pay such income- tax." Section 68 (3) contains the words :" the rate of income-tax chargeable". Section 68 (5) refers to : " (a) any amount of income-tax paid" and s. 68 (7) contains the words : "paid the income-tax under this section ". These words show that Parliament was of the view that what was payable under s. 68 was income-tax.

The points of difference between any Finance Act that may be passed annually fixing the rates of income-tax and s. 68 of the Finance ACt, however, relate to (i) the time within which and the manner in which information in regard to the income is to be furnished, (ii) the method of

computation of taxable income, and (iii) the rate of tax payable on such income. The declaration which is equivalent to a return to be filed under the Indian I. T. Act, 1922, or the I. T. Act, 1961, need not contain all the particulars that have to be furnished in such return. The declaration can be filed during the period mentioned in the proviso to s. 68 (2). There is no provision to claim various deductions, exemptions, set-off, etc., in respect of the income disclosed in the declaration as in the case of income shown in an ordinary return. Since the rate of tax is a uniform one and does not vary with the quantum of the income disclosed, there is no need to trace it to any specific assessment year. Further, the declaration is a voluntary one and is not pursuant to any notice issued by the department.

The question is whether these distinguishing features make the amount disclosed in a declaration anything different from the income of an assessee and the tax paid under s. 68, anything different from a tax on income. In other words, does s. 68, impose new charge on the income of the declarant for the first time wholly independent of the levy under s. 3 of the Indian I. T. Act, 1922, or s. 4 of the I. T. Act, 196 ? The High Court has given the following reasons for holding that the tax paid under s. 68 is not tax on income payable under the Indian I. T. Act, 1922, and the I. T. Act, 1961 : (i) the charge under the I. T. Act is on the total income of the previous year and not on any particular item of income but that is not so under s.68, (ii) payment of tax under s. 68 has no reference to any assessment year and unless it is correlated to an assessment year it cannot be ordinary income- tax, and (iii) the disclosed income is chargeable to tax without allowing usual deductions and without providing for any procedure for quantification.

The High Court proceeded to hold that s. 68 enacted a new charge of tax, on an ad hoc basis, on disclosed income irrespective of the assessment year in which it was earned. The disclosure of concealed income coupled with the payment of tax as contemplated in cl. (i) of sub-s. (1), according to the High Court, not only created a charge of tax but also satisfied it.

In its view, the disclosure of concealed income coupled with furnishing of security and undertaking as contemplated in cl. (ii) created a new charge of tax and when the undertaking was carried out by the payment of tax, the liability arising from the charge of tax was satisfied.

One basic fallacy underlying the conclusion of the High Court that a new charge is being levied under s. 68 appears to be the assumption that the amount in question in respect of which tax is payable under that provision was not liable to income-tax earlier. It should be borne in mind that the declaration contemplated under s. 68 is a declaration in respect of income of earlier years, which had been concealed and on which tax was payable during the relevant assessment years in the ordinary course. Section 3 of the Indian I. T. Act, 1922 and s. 4 of the I. T. Act, 1961, which are couched more or less in the same language state that where any Central Act enacts that income-tax shall be charged for any year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with the subject to the provisions of the relevant act in respect of the total income of the previous year or previous years, as the case may be, of every person. Now it is well settled by a series of judicial decisions that the liability to income-tax arises by virtue of the charging section in the relevant I. T. Act and it arises not later than the close of the previous year, even though the rate of tax for the year of assessment may be fixed after the close of the previous year and the assessment as necessarily to be made after the previous year.

The quality of chargeability of any income to tax is not dependent upon the passing of the Finance Act though its quantification may be governed by the provisions for the Finance Act in respect of any assessment year (vide Wallace Brothers and Co. Ltd. v. CIT [1948] 16 ITR 240 (PC),

Chatturam Horilram Ltd. v. CIT [1955] 27 ITR 709; [1955] 2 SCR 290 and Kalwa Devadattam v. Union of India [1963] 49 ITR (SC) 165; [1964] 3 SCR 191. In the case of Kesoram Industries and Cotton Mills Ltd. [1966] 59 ITR 767 (SC), Subba Rao J. (as he then was) summarized the legal position thus (p. 784) :

> "To summarize : A debt is a present obligation to pay an ascertainable sum of money, whether the amount is payable in praesenti or in futuro : debitum in praesenti, solvendum in futuro. But a sum payable upon a contingency does not become a debt until the said contigency has happened. A liability to pay income-tax is a present liability though it becomes payable after it is quantified in accordance with ascertainable data. There is a perfected debt at any rate on the last day of the accounting year and not contingent liability. The rate is always easily ascertainable. If the Finance Act is passed, it is the rate fixed by that Act; if the Finance Act has not yet been passed, it is the rate proposed in the Finance Bill pending before parliament or the rate in force in the preceding year, whichever is more favorable to the assessee. All the ingredients of a 'debt' are present. It is a present liability of an ascertainable amount."

It is thus clear that if the assessee had brought to the notice of the department in the usual course the existence of incomes which were later on declared under s. 68, they would have been taxed during the relevant assessment year. Hence merely because they are disclosed in a declaration filed under s. 68, they cannot cease to be incomes not already charged for income-tax. It is true that the Finance Act in question merely levied a fixed rate of income-tax in respect of all the income disclosed without allowing deductions, exemptions and set- offs under the relevant income-tax law. Yet its function was not more than that of a Finance Act passed annually even though it made certain alteration with regard to filing of declaration and computation of taxable income.

It was, however, urged on behalf of the department that the nature of the declaration which was dependent upon the volition of the declarant and the fact that the liability to tax the amount mentioned therein was contingent upon the willingness of the declarant to disclose the amount ought to make a difference. We do not think so because any such voluntary disclosure by an assessee even in the absence of s. 68 would have exposed him to an assessment or reassessment, as the case may be, being made in respect of the sum disclosed as part of the income of the relevant assessment year and of course with the additional liability to payment of interest and levy of penalty and perhaps with the right to claim deductions, if any, admissible in the circumstances of the case and the benefit of other procedural rights. The voluntary character of the declaration cannot, therefore, alter the character of the tax. There is also no substance in the contention that in the absence of the allocation of the amount disclosed amongst different assessment years the tax payable under s. 68 cannot be termed as a tax on income because such allocation would not achieve any additional purpose in the scheme of s. 68. Irrespective of the other income which may have been determined in an ordinary proceeding under the relevant law of income-tax, a fixed rate of tax is payable under s. 68 (3) and hence the amount disclosed being treated as the income of any particular year would not make any difference regarding the quantum of tax. Nor is there any other purpose to be served by such allocation. Section 68 is in the nature of a package deal but the net result achieved is that the declarant is treated as having discharged all his liability in respect of the said income under the income-tax law.

There is one other circumstance which may be noticed here. The tax levied under s. 68 can be only a tax on income. If we hold it otherwise it may become a tax on wealth itself. The basis of the liability

in this case is the admission made by the declarant that the amount declared was his income earned in the previous years but concealed from the knowledge of the department. In these circumstances, it cannot be said that the amount declared under s. 68 is not income which was not taxable under the Indian I. T. Act, 1922, or the I. T. ACt, 1961, as the case may be. The finding of the High Court that s. 68 created a fresh charge is incompatible with the foundation of the very reassessment proceedings under s. 17 of the Act. The basis of these proceedings is the information which the WTO acquired from the declaration filed by the assessee, in this case that the assessee was in possession of unaccounted funds represented by non-genuine hundis which had progressively reached the level of Rs. 7,01,578 during the assessment year 1964-65, from the level of Rs. 4,57,465 in 1959-60, by gradual accumulation of income. But for this assumption, in the absence of any other material, reassessment under the Act would have been possible only in the last year in which the disclosure was made. That, however, is not the case here.

The High Court in support of its view has relied on the decision of the Kerala High Court, though not on the reasoning given in support of that decision in C. K. Babu Naidu v. WTO [1971] 82 ITR 410 (Ker). That decision has since been reversed in appeal by a Division Bench of that court in C. K. Babu Naidu v. WTO [1978] 112 ITR 341 (Ker) in which the Kerala High Court has held that the liability for tax arising under s. 68 of the Finance Act was nothing other than the liability under the I. T. Act, 1961, itself and accordingly has allowed the deduction of tax paid under s. 68 as a "debt owed" on the valuation date.

In CWT v. Girdhari Lal [1975] 99 ITR (Delhi), CWT v. B. K. Sharma [1977] 110 ITR 902 (All), CWT v. Bansidhar Poddar [1978] 112 ITR 957 (Cal), D. C. Shah v. CWT [1979] 117 ITR 348 (Kar) and Shri Bhagwandas Jain v. Addl. CWT [1979] 116 ITR 347 (MP), the High Courts of Delhi, Allahabad, Calcutta, Karnataka and Madhya Pradesh have accepted the view that the tax paid under s. 68 of the Finance Act should be treated as a "debt owed" for purposes of determining net wealth as defined in s. 2 (m) of the Act. The High Court of Bombay has also reached the same conclusion in Bhawanidas Binani v. CWT [1980] 124 ITR 783, but in doing so it observed that "it appears to us that although it is not possible to say that the amount of income-tax paid under s. 68 of the Finance Act, 1965, is income-tax under the charging s. 3 or s. 4 of the I. T. Acts, it must be regards as income-tax paid in lieu of such income-tax and would be entitled to the same considerations as lavished by the Supreme Court on the ordinary charge of income-tax". The High Court of Bombay appears to take the view as the High Court of Gujarat has done in the decision under appeal that a new liability is created by s. 68 but it, however, would not have any adverse effect on the right of the assessee to claim the deduction. While we approve of the conclusion reached by the high Court of Bombay, we feel that the said decision, to the extent it attempts to follow the reasoning given by the Gujarat High Court to hold that the liability under s. 68 is a fresh liability, is not correct. The true position is that the amount declared has the liability to pay income-tax imbedded in it on the valuation date but only the ascertainment of the liability is postponed to a future date. In the instant case, its determination is allowed to be done in accordance with the provision of s. 68. Even though it may appear to be by itself a complete code it is only a scheme which provides a method for the liquidation of an already existing income-tax liability which was present on the relevant valuation date. This view does not in any way go counter to any observations made by this court in CIT v. Khatau makanji Spinning and Weaving Co. Ltd. [1960] 40 ITR 189 (SC). In that case, this court was concerned with the validity of a charge levied by the Finance Act, 1951, in respect of dividends distributed in excess of the specified limit under cl. (ii) of the proviso to paragraph B of Part I - of the First Schedule to that Act as applied to the assessment year 1953-54 by the Finance Act, 1953. This court held that income-tax was a tax on the income of the previous year and it would not cover something which was not the income of the previous year or made fictionally so and according to

the scheme of that provision it was impossible to say that the additional income-tax was properly levied upon the total income because what was actually taxed was never a part of the total income of the previous year. This decision is clearly distinguishable from the present case where what is taxed is the income which was ordinarily liable to tax but which had not been included in the return of the assessee, or which had escaped assessment or which was still to be assessed to income-tax under the relevant I. T. Act. It was in fact a part of the total income though not assessed till the declaration was made. Merely because it is stated that the rate of tax charged on the amount declared is sixty per cent. or fifty-seven per cent., as the case may be, it does not cease to be a part of the total income. This is not a case where what was not in fact income had been converted into income by s. 68. For the same reason, the department cannot derive any support from the observations made by this court in Madurai District Central Co-operative Bank Ltd. v. Third ITO [1975] 101 ITR 24. We are, therefore, of the view that the assessee was entitled to claim deduction of income-tax payable on the amounts added to his total wealth under s. 2 (m) of the Act in the course of the reassessment proceedings.

In the result, these appeals are allowed, the judgment of the High Court is set aside and the questions referred to it are answered in the affirmative and in favour of the assessee. The department will pay the costs of the appellant-assessee. Hearing fee one set. Appeals allowed.

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