ANDHRA PRADESH HIGH COURT

Vadrevu Venkappa Rao

Vs

Commissioner of Wealth-Tax

(Jaganmohan Reddy C.J.)

30.06.1967

JUDGMENT

Jaganmohan Reddy C.J.

1.The Income-tax Appellate Tribunal has referred the case on the following two questions for our decision, namely :

> "(1) Whether the Wealth-tax Officer was justified in including in the total wealth of the assessee, the amount of Rs. 80,000, representing the amount of compensation receivable by the assessee from the Government ? and (2) Whether the Wealth-tax Officer was right in including in the assessment of the assessee the interest due to it on accrual basis ?"

The assessee is a Hindu undivided family and the assessment in question is in respect of the year 1960-61 for which the relevant valuation date is June 30, 1959. The assessee returned a net wealth of Rs. 5,04,200 which included Rs. 11,624.87 being the interest which accrued to the assessee on the loans made to its constituents in connection with money-lending business. The Wealth-tax Officer, however, determined the net wealth at Rs. 6,00,801, and amongst other additions, he made an addition of Rs. 80,000 as representing the amount of compensation payable to the assessee under section 54A of the Madras Estates (Abolition and Conversion into Ryotwari) Act, XXVI of 1948, hereinafter called the Abolition Act. It may be stated that some of the estates of the assessees were taken over by the Government under the Abolition Act and a sum of Rs. 1,60,000 was provisionally fixed as the total compensation payable to the assessee under section 54A(1) of the Abolition Act. Out of this amount Rs. 80,000 was paid to the assessee. The amount in question roughly represented one half of the final compensation which was ultimately payable to the assessee under section 39 of the Abolition Act. The final compensation has not so far been determined. The Wealth-tax Officer took the sum of Rs. 80,000 which represented the compensation to which assessee was entitled, as constituting its wealth and added the same in it s assessment. The Wealth-tax Officer had also assessed in the hands of the

assessee the accrued interest on the monies which remained outstanding on the date of valuation, as per its return.Before the Appellate Assistant Commissioner before whom the matter was taken up in appeal, it was contended that compensation amount which was stated to be due to the assessee from the Government was not liable to wealth-tax and that since it was not an ascertained amount it could not be said that the same could constitute a part of wealth of the assessee. The Appellate Assistant Commissioner rejected both the contentions of the assessee and held that since on the valuation date the assessee had a legally enforceable right in respect of the sum of Rs. 80,000, it fell for inclusion in the net wealth of the assessee. With regard to the other contention of the assessee, he was of the view that for wealth-tax purposes, the interest had to be added to the principal amount advanced on accrual basis.It was contended before the Tribunal in second appeal that the inclusion of the sum of Rs. 80,000 in the assessment of the assessee on an estimate basis was illegal. The argument was that, as there was no ascertained amount of money due from the Government, there was no justification for including the same in the assessment of the assessee. With respect to the addition of interest, it was contended that as the assessee was maintaining his accounts on cash basis and there was no certainty of realising even the principal amount in certain cases, the Wealth-tax Officer was not justified in including the same in the net wealth of the assessee. The Appellate Tribunal looked into the nature of the payments made to the assessee under section 54A(1) of the Abolition Act. It was of the view that the entire payments made to the assessee were receipts of a capital nature and the balance which was still due to the assessee constituted an asset which had to be taken into consideration in computing the total wealth. It was observed that, though the final compensation, to which the assessee might be entitled, had not been determined so far, the interim compensation that had been paid to the assessee under section 54A roughly represented one half portion of the total compensation which was not to be paid to the assessee under section 39(1) of the Act. It thus held that, since the amount of Rs. 80,000 that had been included in the total wealth the assessee on estimate basis was subject to revision, no injury would be caused to the assessee in the ultimate result. Dealing with the contention of the assessee with regard to the inclusion in the total wealth of the assessee of the interest income from the money-lending business on accrual basis, it observed :

> "The interest on the amount advanced by the assessee accrues from day to day. In evaluating the amount due from a debtor, it is necessary to include the interest which may have accrued up to the date. It constitutes an assets and has to be taken into consideration in computing the total wealth of the assessee. It is in the nature of a debt to which the assessee is entitled when it seeks enforcement of its claim against its debtor."

It has been pointed out that both these questions have conclude by Bench decisions of this court. On the first question there are three judgments of this court; two of them are under the

Hyderabad (Jagirs Abolition) Act and the other under Abolition Act. All of them enunciate the same principle, namely, the present liability to pay some money which is ascertainable only in future constitutes a debt in law and therefore, is wealth. In Mir Imdad Ali Khan v. Commissioner of Wealth-Tax, a Bench of this court, to which one of us was a party held that commutation amount sanctioned by the Government for payment to a jagirdar under the Hyderabad (Jagirs Abolition) Regulation and the Hyderabad (Jagirs Commutation) Regulation is an "assets" within the meaning of section 2(e) of the Wealth-Tax Act, and where the amount awarded is payable in instalments, wealth-tax is payable is not only on the amounts actually paid to the jagirdar before the valuation date but on the total amount of compensation payable of him under the award. The only question to be decided was whether the communication amounts were "assets" within the meaning of section 2(e) of the Act; if so, whether the total commutation amount payable to the assessee should be taken into account or only those instalments of the communication amounts which are periodically paid under the provisions of the Jagir Abolition Regulation and Jagir Commutation Regulation. After referring to the several provisions of the Act, it was observed at page 221 of the report that the commutation amount represents the net value of the compensation payable to the holder of the jagir in liquidation of his rights in the jagir by capitalising the amount based on the basic annual revenue of the jagir, and that there is little doubt that the commutation amount payable to the assessee is his assessee is his assets within the meaning of section 2(e) of the Wealth-tax Act.In Rani Bhagya Laxmamma v. Commissioner of Wealth-tax a Bench of this court, to which one of us was a party, also held that the commutation amount sanctioned by the Government under the Hyderabad (Jagirs Abolition) Regulation and the Hyderabad (Jagirs Communation) Regulation was an "asset" within the meaning of section 2(e) of the Wealth-tax Act, and where the amount awarded is payable in instalments, wealth-tax is payable not only on the amount actually paid to the jagirdar before the valuation date but also on the total amount of compensation payable to him under the award. The Bench referred to Mir Imdad Ali Khan v. Commissioner of Wealth-tax in support of its conclusion.The next case which deals with the first question is V. Chandramani Pattamaha Devi v. Commissioner of Wealth-tax decided also by a Bench of this court to which one of us was party. This a case under the Estates Abolition Act wherein it has been held that the balance amount of compensation which is to be ascertainable in future under section 39 of Act XXVI of 1948 and to paid the assessee is a debt owing to the assessee. That being so, it is an assets of the assessee which has to be reconed in assessing the total wealth of the assessee for purpose of the Wealth-tax Act. The observations of Lord Justice Bankes in ODriscoll v. Manchester Insurance Committee were referred to which are as follows :

> "It is well established that debts owing or accruing include debts debita in praesenti, solvenda in futuro. The matter is well put in the Annual Practice, 1915, page 808 : But the distinction must be borne in mind between the case where there is an existing debt, payment whereof is deferred, and the case where both the debt and its payment rest in

future. In the former case there is an attachable debt, in the latter case there is not. If, for instance, a sum of money is payable on the happening of a contingency, there is no debt owing or accruing. But the mere fact that the amount is not ascertained does not show that there is no debt."

It was, therefore, held that a present liability to pay a sum of money which is ascertainable only in the future -constitutes a "debt" in law.Applying these principles, the first question will have to be answered in the affirmative and against the assessee.On the second question also our answer is in the affirmative and against the assessee. The interest that accrues on the valuation date forms part of the assets and must be added to the value of the assets to determine the liability for the wealth-tax. In an unreported judgment dated 23-7-1966 in R.C. No. 51/63 (Pachigotta Subba Rao v. Commissioner of Wealth-tax) a Bench of this court, consisting of Kumarayya and Sharfuddin Ahmed JJ., was considering a similar question and it was held that for purposes of wealth-tax the amount due on pro-notes and mortgage bonds, both principal and the interest on the valuation date, have to be taken into account for determining the net wealth and, therefore, the addition of Rs. 35,000 made by the Wealth-tax Officer was quite in accordance with law. In another unreported judgment dated 28-6-1963 in R.C. No. 54/61 (Chekka Suryanarayana v. Commissioner of Wealth-tax) a Bench of this court consisting of Chandra Reddy C.J. and Narasimham J. held that the loans and advances owing to the assessee occuring in annexure III are wide enough to include interest. The mere fact that the term "interest" does not occur as such in this description of asset would not convey or compel an inference that interest was deliberately omitted and cannot be taken into account. Accordingly, the answer of the Bench was that the interest accrued due was properly includible in the value of the money-lending asset.As already indicated, our answer to both the questions is in the affirmative and against the assessee with costs. Advocates fee Rs. 250.

Questions answered in the affirmative.