

CALCUTTA HIGH COURT

Commissioner of Wealth-Tax

Vs

Tungabhadra Industries Ltd

(Mitter J.)

29.01.1965

JUDGMENT

Mitter J.

In this reference under section 27(1) of the Wealth-tax Act, 1957, the question referred to the court is :

"Whether, on the facts and in the circumstance of the case, for the purpose of determining the net value of the assets of the assessee under section 7(2) of the Wealth-tax Act, 1957, the Tribunal was right in directing that the written down value of the fixed assets of the assessee should be adopted as the value thereof, instead of their balance-sheet value ?"

The facts taken from the statement of the case are as follows :

The relevant assessment years are 1957-58, 1958-59 and 1959-60 and the valuation dates for these applications are September 30, 1956, September 30, 1957, and September 30, 1958. In assessing the net wealth of the assessee, the Wealth-tax Officer proceeded under section 7(2)(a) of the Wealth-tax Act and included in the computation the entire balance-sheet value of the assets without any adjustment. The assessee contended that so far as the fixed assets were concerned they should be assessed at their written down value and not on the basis of the value as shown in the balance-sheet. This contention of the assessee was rejected by the Wealth-tax Officer. The appeal to the Appellate Assistant Commissioner was not successful. The Appellate Tribunal however took the view that, if the Wealth-tax Officer proceeds under sub-section (2) of section 7, he must make adjustments for depreciation of the values from the balance-sheet figures. The Tribunal noted "the balance-sheet of a company does not indicate the market value of the assets. The assets, other than stock, usually are valued at cost..... The balance-sheet value of the assets must be regarded as something entirely distinct from the market value thereof. In a large business it is almost impossible to value each particular asset at the market price from year to year. The legislature appears to have, therefore, provided that in the case of a running business the

Income-tax Officer may adopt the balance-sheet value. The legislature, however, empowered the Wealth-tax Officer to make necessary adjustments in the balance-sheet value, so that it might conform, as nearly as may be, to the value of the assets to the business.... In determining this value in respect of fixed and depreciable assets there is no reason why an adjustment cannot be made in respect of the normal wear and tear due to effluxion of time, if no adjustment has been made in the balance-sheet in that regard. The words of sub-section (2), far from being rigid, leave ample room for such adjustment if the circumstances of the case so demand. In fact, the Central Board of Revenue in its circular No.3 W.T. of 1957, dated September 28, 1957, directs that depreciation may be allowed for in appropriate cases in computing the bulk valuation of business assets under section 7(2)There is, therefore, no warrant for the view that in a computation under section 7(2) no adjustment whatever can be made for depreciation. In the income-tax assessments depreciation is calculated upon the original cost in a scientific and systematic manner with due regard to the nature of the asset. Therefore, the written down value as determined in the income-tax assessment may be taken as the fair index of the net value of the business assets in most cases.....In this particular case, it appears, the assessee did not make any reserve for depreciation and the assets are old dating back from the inception of the business long ago. In these circumstances, in our opinion, it would be fair to adopt the written down value of the assets as the value there of all the year under appeal and we direct accordingly."On behalf of the Commissioner of wealth-tax, reliance was placed on the observation of this court in *Kesoram Cotton Mills Ltd. v. Commissioner of Wealth-tax*, and it was argued that the value of the assets as shown in the balance-sheet was to be accepted even if the computation of the net wealth was to be made under the provisions of section 7(2). The question which arises in this case is entirely different from the one involved in the *Kesoram Cotton Mills* case. There the assessee had revalued its fixed assets in 1950 at a figure exceeding the book value by Rs. 1,45,87,000 and this was done by showing a capital surplus of that amount. It was argued in that case that the revaluation made by the company itself should be ignored. This contention was turned down. It was not argued in that case that the wealth-tax authorities had gone wrong by refusing or allow depreciation, if any, which had taken place in between 1950 and the valuation made in 1957. In this case the arguments is entirely different. Under section 2(m) "net wealth" for the purpose of wealth-tax 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 the Act, is in excess of the aggregate value of all the debts owed by the assessee on the valuation date other than those set forth in clauses (i), (ii) and (iii). The valuation of the assets is to be done under section 7. Two courses are open to the authorities under this section. The Wealth-tax Officer may, if he chooses, value any asset, other than cash, estimating the price which in his opinion it would fetch if sold in the open market on the valuation date. In other words, it means that the market value of each asset may be taken into consideration. Such-section (2) however provides a rough and ready method in the case of an assessee who carries on a business maintaining accounts regularly. In the case of such an assessee it is open to the Wealth-tax Officer, instead of determining separately the value of each asset held by the assessee in such

business, to "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." This means that instead of resorting to the cumbrous process of valuing each and every asset of the business separately, he can adopt the sum total of the values given in the balance-sheet, making such adjustments as may be called for. The balance-sheet will not disclose all the different assets separately, but will show their value taken together in several distinct categories. Any balance-sheet of a manufacturing company prepared under the Companies Act may be taken by way of illustration. On the left hand side it must show all the liabilities of the company including the share capital, the reserves and surplus, the loans and current liabilities and provisions, while on the right hand side it must show the assets including fixed assets, investments, and current assets, loans and advances, etc. So far as fixed assets are concerned, usually a schedule is annexed to the balance-sheet wherein are given specific values of different classes of assets such as, (i) land, (ii) building, (iii) plant and machinery, (iv) office equipment and furniture, (v) motor vehicles, etc., and any other thing which may properly fall within this classification. The current assets will show the stocks held by the assessee, including stores and spare parts, raw materials and components, finished goods and work-in-progress. Any debts owed to the assessee also be shown under the heading "current assets, loans and advances". All moneys belonging to the company whether lying in banks or in its office or factories or securities given to others must also be properly shown. In this case the assessee claimed that since the full amount of depreciation which was admissible under the Indian Income-tax Act was not provided for in the balance-sheet, the same should be deducted from the value of the assets in order to arrive at the net wealth. The Wealth-tax Officer rejected this contention observing that deduction of depreciation allowable under the Income-tax Act did not determine the market value of the goods and, for the purpose of wealth-tax assessment, the value of the assets as estimated by the assessee itself should be accepted. Excluding the value of the land, the total value of the fixed assets as shown in the balance-sheet in this case amounted to Rs. 60,53,811, but the assessee had shown in its return the value of the same at Rs. 7,69,435 only on the basis of the written down value for income-tax purposes. The Wealth-tax Officer observed that "it is common knowledge that the value of imported machinery has increased considerably during the last few years and that on the valuation date I do not think their value should be less than that provided for in the balance-sheet." In our opinion, the Wealth-tax Officer and the Appellate Assistant Commissioner fell into an error in rejecting the contention of the assessee. Section 7(2)(a) given the Wealth-tax Officer power to adopt the balance-sheet value of the assets as the net value of the business as a whole, but this valuation is not sacrosanct. He is at liberty to make adjustments thereto if in his opinion the balance-sheet value does not represent the real value of the assets. For instance, if the assessee holds large blocks of lands purchased many years ago in urban areas, the balance-sheet value thereof shown at cost will certainly not reflect their real value. I see no reason why in such a case the Wealth-tax Officer should be precluded from making such additions to the value of the land as he thinks proper, having regard to the general appreciation of land values in the neighbourhood. Again, if the assessee has shown the value of the plant and machinery of the business at cost, which was purchased many years ago, there is no

reason why he should be precluded from asking the Wealth-tax Officer to make proper allowance thereto in respect of the depreciation which must have been caused by lapse of time as also by wear and tear. The depreciation allowed for income-tax purposes on plant and machinery is somewhat empiric but it affords a rough and ready method of reckoning the loss in value. It may be that plant and machinery imported from abroad and not available in India will fetch higher price than its written down value, while machinery which is readily available in India will fetch no more than such written down value. In our opinion, in normal circumstances and specially when the machinery is old, the written down value given a fair indication of its real value. In the case before us, the plant and machinery appear to have been set up many years ago and no reason has been shown why the written down value should not be accepted, except that the assessee has not provided for depreciation admissible under the Income-tax Act in the balance-sheet.

It may not be out of place to note why depreciation should properly be provided for in a balance-sheet. In Spicer and Peglers Book-keeping and Accounts, 15th edition, page 48, the learned authors say : "At the end of its effective life, the asset ceases to earn revenue, i.e., the capital outlay has expired, and the asset will have to be replaced or a substitute found. Provision for depreciation is the setting aside, out of the revenue of an accounting period, the estimated amount by which the capital invested in the asset has expired during that period. It is the provision made for the loss or expense incurred through using the asset for the purpose of earning profits, and should therefore be charged against those profits as they are earned.....If depreciation is not provided for, the books will not contain a true record of revenue or capital. If the asset were hired instead of purchased, the hiring fee would be charged against the profits; having been purchased, the asset is, in effect, then hired by capital to revenue, and the true profit cannot be ascertained until an analogous charge for the use of the asset has been made. Moreover, unless provision is made for depreciation, the balance-sheet will not present a true and fair view of the state of affairs, since the assets will be shown at an amount which is in excess of the true amount of the unexpired expenditure incurred on their acquisition. The view taken by us is supported by the judgment of the Bombay High Court in Commissioner of Wealth-tax v. India Standard Metal Co. Ltd. In Commissioner of Wealth-tax v. Raipur Manufacturing Co. Ltd. the learned judges of the Gujarat High Court remarked (at page 521) "the written down value may be far from real value of the asset on the valuation date. There cannot be any hard and fast rule in this matter and the Wealth-tax Officer is under no obligation to consider the written down value as the proper value of an asset." While we agree that the written down value may not in all cases represent the real value of the assets, in normal cases it will give the Wealth-tax Officer a fair idea of its proper value unless the plant and machinery are of a rare type or are of a quality which is not generally available in India and for which there is a keen demand. No such uncommon feature is to be found in the case before us. In our opinion, on the facts of this case, the Appellate Tribunal was right in its conclusion and the question posed must be answered in the affirmative and in favour of the assessee who will have the costs of this reference.

Masud J. - I Agree.

Question answered in favour of the assessee.

