

PATNA HIGH COURT

Maharaj Kumar Kamal Singh

Vs

The Commissioner of Wealth Tax

(H Mahapatra and S Singh, JJ.)

14.01.1966

JUDGMENT

H. Mahapatra, J.

1. These two references, under Section 27(1) of the Wealth Tax Act, by the appellate tribunal, Patna, are in relation to assessment years, 1957-58 and 1958-59, in respect of which the two corresponding valuation dates were 31-10-1958, and 31-10-1959 respectively. The assessee is an individual His estate vested in the State of Bihar under the Bihar Land Reforms Act on and from 1-7-1952. He was entitled to receive compensation in that respect from the Government. The manner in which the compensation will be computed as due to an ex-proprietor of an estate has been prescribed in the Act itself. The Wealth Tax Officer included Rs. 10,26,128 in the net wealth of the assessee for determining the wealth tax payable by him as, according to him, that was the amount of compensation due to the assessee from the Government. The basis of that calculation was what the Agricultural Income tax Officer, Arrah, had determined for the year 1359 Fasli to be the assessee's zamindari income (Rs. 3,42,041). The Wealth Tax Officer took three times of that as the minimum compensation which the assessee was likely to receive from the Government. Against that the assessee went in appeal before the appellate Assistant Commissioner of Wealth Tax Patna Branch, who, by a consolidated order in both the cases, held that the Wealth Tax Officer was right in including in the appellant's assessments for the two years the value of compensation estimated at 10 1/4 lakhs rupees on the two valuation dates. Against that, the assessee came in appeal before the appellate tribunal, which found that the right to receive compensation under the Bihar Land Reforms Act was an asset and its market value was to be estimated as provided under Section 7(1) of the Wealth Tax Act. Both the cases were remanded with a direction that the Wealth Tax Officer should get necessary information and clarification as to the amount of compensation payable to the assessee under Ss. 23 and 24 of the Bihar Land Reforms Act and should also afford every opportunity to the assessee to lead evidence about the probable amount of compensation due to him and thereafter estimate the

market value thereof. On this, the assessee asked the tribunal to make a reference to this Court under Section 27(1) of the Wealth Tax Act, (which will be referred to hereafter as the Act) which was allowed and the following question was framed for reference:

"Whether on the facts and circumstances of the case the amount of compensation payable to the assessee under the Bihar Land Reforms Act (Act 30 of 1950) constituted an 'asset' within the meaning of Section 2(e) of the Wealth-tax Act and so liable to be included in the assessee's net wealth on the two valuation dates relevant for the assessment years 1957-58 and 1958-59."

2. The charging Section 3 of the Act provides that for every financial year, a tax in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company at the rate or rates specified in the Schedule shall be charged. The net wealth has been defined in Clause (m) of Section 2 as meaning the amount by which the aggregate value of all the assets belonging to the assessee on the valuation date is in excess of the aggregate value of all the debts owed by him on that valuation date other than those specified in that clause. To find out what was the aggregate value of all the assets of an assessee it is necessary to determine what is to be taken as an asset for the purpose of this Act Clause (e) of that section states that "assets" include property of every description movable or immovable but does not include-

(i) agricultural land and growing crops grass or standing trees on such land;

(ii) any building owned or occupied by cultivator or receiver of rent or revenue out of agricultural land :

Provided that the building is on or in the immediate vicinity of the land and is a building which the cultivator or the receiver of rent or revenue by reason of his connection with land requires as a dwelling-house or a store-house or an out house;

(iii) animals;

(iv) a right to any annuity in any case where the terms and conditions relating thereto preclude the commutation of any portion thereof into a lump sum grant;

(v) any interest in property where the interest is available to an assessee for a period not exceeding six years.

The question to be determined in the present case is whether the right to receive compensation

can be taken as an asset within the meaning of this definition The Parliament did not give an exhaustive definition, but only indicated that shall be taken as included in "assets". The definition is thus enumerative and extensive in scope Immovable property has not been defined in this Act. Its definition in the General Clauses Act, 1897 includes land, benefits to arise out of land and the things attached to the earth or permanently fastened to anything attached to the earth That again is not exhaustive Movable property is defined in that Act (General Clauses Act) as meaning property of every description except immovable property. "Property" is very comprehensive in its meaning; it includes real and personal property and debt anything in action and any other right or interest in the nature of property It includes not only physical object but also rights and interests existing or derived out of physical objects Thus we find that "assets" as defined in the Wealth Tax Act is very wide in import as includes property in general sense, which cantoring within its scope rights relating to property The exceptions mentioned in the definition of "assets" in the Act under Clause (e) of Section 2 show that a right to any annuity in some given cases and interest in property where the interest is available for a period less than six years are not to be treated as assets; but for this exception they were to be and could be brought under the definition; This, in my view, is clearly indicative that the rights relating to and interest in movable and immovable property, if not specifically excluded, are to be taken is assets of an assessee An "estate" was Undoubtedly a property before it vested in the State under the Bihar Land Reforms Act. On vesting, the ex-proprietor became entitled to receive compensation, the amount of which has been shown in the Act itself how to be computed and paid. That will be without any doubt, a right relating to property; and, therefore, within the definition of "assets" as given in the Act This right arises immediately on vesting of the estate It is true that the date of payment of compensation or the manner in which it will be paid has been left within the domain of the State Government; but all the same, until it is paid, the right of the ex-proprietor to that remains unabated. It may appear inequitable to charge subject to tax on that right before any benefit in shape of any payment either in case or in bond, is received by him But that was a matter for the Parliament to take into account A taxing statute has to be enforced in its letter: and whether that will bring any inequitable consideration against the subject is not for the Court to meditate upon. Many things which may appear equitable within the purpose of a taxing statute are often excluded from enforcement for the simple reason that though that may be consistent with the spirit of the Act they do not come within the letters of that. The sole purpose of the Wealth Tax Act. 1957. was to authorise the levy of a particular taxation If the right to compensation from the State in lieu of the estate of which the proprietor was divested is property and is. therefore included in the definition of "assets" as given in the Act. there is no escape for that from computation of the net wealth of the assessee.

3. Learned counsel appearing for the assessee contended that there is enormous uncertainty both in regard to the amount of compensation and the manner in which it will be payable until that is

finally determined. The manner of computation has been prescribed in the Act and the assessee is entitled to interest on what will be determined finally as his due compensation. Even when interim compensation is paid under the provisions of that Act (Bihar Land Reforms Act), it is related to the approximate amount of compensation. In the present case the assessee admittedly received an interim compensation of Rs 41,000 in March, 1956, from the State of Bihar. That presupposes that the approximate amount of compensation payable to the assessee must have been arrived at according to Section 33 of that Act. Not necessarily the whole of the amount of compensation payable to the assessee will be the value of his right to receive that compensation. Even though that will be an asset, its value is to be determined in accordance with the provision under Section 7 of the Act which provides that the value of any asset other than cash for the purposes of this Act, shall be estimated to be the price which in the opinion of the Wealth Tax Officer it would fetch if sold in the open market on the valuation date. The tribunal has remanded the case with a direction to the Wealth Tax Officer to determine on evidence first of all, what will be the amount of compensation payable to the assessee and then to estimate what would be the market value with reference to the manner in which the (sic) payable is designed by the Government. This was a pertinent course to be adopted. The right to receive compensation under the Bihar Land Reforms Act constituted an asset to be included in the net wealth of which value was to be determined according to Section 7 of the Act both for the assessment years 1957-58 and 1958-59 so far as the assessee was concerned. This disposes of one of the two questions referred.

4. Clause (m) of Section 2 of the Act where "net wealth" has been defined to be the aggregate value of all the assets belonging to an assessee in excess of the aggregate value of all the debts owed by him on the valuation date, has specified which debts will not be taken into account in such computation. Sub-clause (iii) of that clause says that the amount of the tax penalty or interest payable in consequence of any order passed under or in pursuance of this Act or any law relating to taxation of income or profits, or the Estate Duty Act, 1953, the Expenditure-tax Act, 1957, or the Gift-tax Act, 1958, which although not claimed by the assessee as not being payable by him is nevertheless outstanding for a period of more than twelve months on the valuation date, will be one of those debts to be excluded from such calculation. Admittedly, there were certain amounts of tax due from the assessee under the Bihar Agricultural Income-tax Act outstanding on the two valuation dates of the two wealth tax assessment years. The assessee contended that that amount is not covered by Sub-clause (iii) of Clause (m) of Section 2, because that was by way of tax imposed not under a central enactment relating to taxation of income or profits but a law made by the State. His point was and is that laws relating to taxation of income or profits as mentioned in that sub-clause should be taken as laws such as the Estate Duty Act, the Expenditure-tax Act or the Gift-tax Act. If that was the intention of the Parliament, they would have specifically mentioned the Central Act like Income-tax Act also when they

mentioned the other Central Acts like the Estate Duty Act, the Expenditure Tax Act and the Gift-tax Act. The very fact that Parliament chose to leave the laws relating to taxation of income and profits without any qualification, is clearly indicative of its wider scope. All kinds of laws relating to such taxation, whether by the State legislature or by the Parliament, therefore are included under that provision.

5. The agricultural Income-tax due from the assessee and outstanding for a period of more than twelve months on the valuation dates was, therefore, not to be comprised within the aggregate value of all the debts owed by him for determining his net wealth. The appellate tribunal in its order in relation to two assessment years, 1967-58 and 1958-59, held that the sum of Rs. 2,71,952, the outstanding of agricultural income-tax due, in respect of the Fasli years 1357 and 1358, from the assessee was not deductible as they were outstanding for more than twelve months against him. The assessee challenged that, not in regard to the amount but in respect of its deductibility; and on that account, the other question framed in the reference was:-

"Whether the sum of Rs, 2,71,952, representing the amount of agricultural income-tax outstanding from the assessee for a period of more than 12 months as on the valuation dates is deductible as a debt owed by the assessee in computing his net wealth under Section 2(m) of the Wealth Tax Act."

6. From what I have already stated there cannot be any doubt that the amount of tax, which is outstanding for more than twelve months against the assessee under the Bihar Agricultural Income-tax Act, which is a law relating to taxation of income or profits could not be included in his debts or calculating his "net wealth". The Agricultural Income-tax is designed to levy taxation on a particular kind of income, namely, agricultural as detailed in that Act.

7. Both the questions involved in the reference are thus answered against the assessee and in conformity with the view taken by the tribunal in its order dated the 25th of June, 1960. The opposite party will be entitled to a consolidated hearing fee of Rs. 250 as costs in this case from the assessee-petitioner.

S.N.P. Singh, J.

8. I agree.