

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "B": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

WTA.No.9/Del./2016
Assessment Year 2006-2007

Ms. Megha Garg C/o. Shri Tej Mohan Singh, Advocate, 527, Sector-10D, Chandigarh. PAN AHBPG5374M (Appellant)	vs.,	The DCWT, Circle-25(1) New Delhi. (Respondent)
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For Assessee :	Shri Tej Mohan Singh, Advocate
For Revenue :	Shri Anshu Prakash, Sr. D.R.

Date of Hearing :	05.10.2017
Date of Pronouncement :	11.10.2017

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by assessee has been directed against the order of the CWT(A)-14, New Delhi, dated 15th March, 2016 for A.Y. 2006-2007.

2. Briefly the facts of the case as noted in the assessment order are that in this case assessment for A.Y. 2006-2007 has been reopened after recording satisfaction and obtaining approval of Addl.

CIT, Range-25, New Delhi, under section 17 of the Wealth Tax Act. The main allegations in the reasons were that ITO, Ward-35(1) has transferred a report received from the O/o. DDIT (Inv.), Panchkula in the case of assessee Smt. Megha Goel now Ms. Megha Garg. The report shows that the daughter of Shri Subhash Goel, Smt. Megha Goel has lodged an FIR against her in-laws that her father had given her jewellery worth Rs.55 lakhs in her marriage on 17.11.2005 and her in-laws had stolen that jewellery. During the investigation, Shri Subhash Goel had stated that he had received that jewellery by way of a will from his mother in 2002. The investigation report was accordingly forwarded. The assessee filed return of wealth for assessment year under appeal so the report is also sent to the A.O. at New Delhi. It is noted by the A.O. that if the assessee was having jewellery of Rs.55 lakhs on the date of her marriage i.e., 17.11.2005, she should have file her wealth tax return. Since no wealth tax return has been filed by her, therefore, a wealth of Rs.55 lakhs has escaped assessment for assessment year under appeal i.e., 2006-2007. The A.O. after giving an opportunity to the assessee, computed the net wealth at Rs.65,48,443 by making addition of Rs.50,65,000.

3. The assessee challenged the reopening of the assessment as well as addition on merit. However, CWT(A) dismissed the appeal of assessee.

4. The Assessee, in the present appeal challenged the reopening of the assessment under section 17 of the Wealth Tax Act as well as addition on merit.

4.1. The Learned Counsel for the Assessee, at the outset, submitted that the assessee filed letter dated 19.02.2014 before A.O. (PB-20) wherein she made a request to the A.O. to supply copy of the reasons recorded for initiating the proceedings under section 17 of the Wealth Tax Act. However, the same have not been supplied to the assessee. The Learned Counsel for the Assessee further submitted that the same request was made to the CWT(A) in the written submissions, copy of which is filed at pages 8 to 19 of the paper book along with copy of the letter filed before A.O. dated 19.02.2014 in which the assessee in para-2 submitted as under :

“2. During assessment proceedings appellant requested for providing copy of reasons recorded before issuing notice u/s 17 of the Wealth Tax Act. Copy of the said request letter filed during

assessment proceedings is enclosed at page no. 13-15. However, the said reasons were not provided. The re-opening and supply of reasons should have been done within 6 years from the end of relevant year and the said period has already expired. Since the reasons have not been provided even when the request in this regard has been made by the assessee, the impugned assessment deserves to be quashed. For this proposition, we rely upon the ratio of judgements in :

- a. The Hon'ble DELHI HC, in the case of Haryana Acrylic Manufacturing Co. v. CIT 308 ITR 38 (2009), held in following manner :*
- b. "A notice under section 148 without the communication of the reasons therefore is meaningless inasmuch as the Assessing Officer is bound to furnish the reasons within a reasonable time. In a case where the notice has been issued within the said period of six years but the reasons have not been furnished within that period any proceedings pursuant thereto would be hit by the bar of limitation inasmuch as the issuance of the notice and the communication and furnishing of reasons*

go HAND-IN-HAND. The expression ‘within a reasonable period of time’ as used by the Supreme Court in the case of GKN Driveshafts (India) Ltd. (supra) cannot be stretched to such an extent that it extends even beyond the six years stipulated in section 149. Then, the validity of the notice under section 148 and any proceedings pursuant thereto could not be upheld.”

c. The above decision of Hon’ble Delhi HC is further followed by ITAT Delhi bench in the case of Shri Balwant Rai Wadhwa Vs. ITO, in ITA No. I.T.A No. 4806/Del/10. The ITAT bench held that if reasons are not supplied to the assessee within the period of 6 years then it would be construed that assessment has not been validly reopened.”

4.2. Learned Counsel for the Assessee submitted that since copy of reasons recorded for reopening of the assessment have not been supplied to the assessee, therefore, the issue is covered by the judgment of the Hon’ble Delhi High Court in the case of Haryana Acrylic Manufacturing Co. vs. CIT (2009) 308 ITR 38 and order of ITAT, Delhi Bench in the case of Shri Balwant Rai Wadhwa vs. ITO

(supra). Learned Counsel for the Assessee submitted that despite making this request to the Ld. CWT(A), he did not decide the objection of the assessee in the appellate order and merely confirmed the reopening of the assessment in the matter. Learned Counsel for the Assessee further submitted that the department reopened the assessment similarly in the case of father of the assessee Shri Subhash Chander Goel on account of gift of jewellery of Rs.55 lakhs to the assessee. The ITAT, Chandigadh Bench in the case of Shri Subhash Chander Goel vs. ITO, Ward-1(3), Chandigarh in ITA.No.282/Chd/2014 and ITA.No.389/Chd./2014 vide order dated 18.11.2015 quashed the reopening of the assessment under section 148 of the I.T. Act as well as deleted the addition on merits. Copy of the order is placed on record.

5. The Ld. D.R. on the other hand relied upon the orders of the authorities below.

6. Considering the rival contentions, we are of the view that the reopening of the assessment in the facts and circumstances of the case is bad in law and liable to be quashed. The assessee filed the return of wealth tax and made a request to the A.O. to supply

copy of the reasons recorded for reopening of the assessment under section 17 of the Wealth Tax Act vide letter dated 19th February, 2014, copy of which is filed at page-20 of the paper book. Similarly, assessee in the written submissions before the Ld. CIT(A) raised the same point that copy of the reasons for reopening of the assessment under Wealth Tax have not been supplied to the assessee within the period of limitation. Therefore, the issue is covered by judgment of Hon'ble Delhi High Court in the case of Haryana Acrylic Manufacturing Co. vs. CIT (supra) and order of ITAT, Delhi Bench in the case of Shri Balwant Rai Wadhwa vs. ITO (supra). The Ld. CWT(A) instead of considering the issue in proper perspective did not decide the issue in accordance with law and merely confirmed the reopening of the assessment. The submissions of the assessee made before the A.O. and Ld. CWT(A) have not been rebutted by the department through any evidence or material on record. It, therefore, stands proved that the copy of the reasons for reopening of the assessment under Wealth Tax Act have not been supplied to the assessee within time. Therefore, the re-assessment is liable to be quashed. We may also note here that on the same reasoning of giving jewellery of Rs.55 lakhs by Shri Subhash Chander Goel to the assessee remained

subject matter in appeal before ITAT, Chandigarh Bench and the Tribunal vide order dated 18.11.2015 quashed the reopening of the assessment as well as deleted the additions on merit. In view of the above discussion, we are of the view that reopening of the assessment is bad in law and liable to be quashed. We, accordingly, set aside the orders of the authorities below and quash the initiation of re-assessment proceedings under section 17 of the Wealth Tax Act. Resultantly, all additions made in the re-assessment order stands deleted.

7. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER
Delhi, Dated 11th October, 2017
VBP/-

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "B" Bench
6.	Guard File

//By Order//

ASST. REGISTRAR : ITAT : DELHI BENCHES : DELHI.