

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH : KOLKATA

[Before Hon’ble Shri M.Balaganesh, AM & Shri S.S.Viswanethra Ravi, JM]

W.T.A No. 01/Kol/2017

Assessment Year : 2011-12

Surendra Pal Singh
[PAN: ALBPS 2171 G]
(Appellant)

-vs- DCWT, Circle-2, Siliguri
(Respondent)

For the Appellant : Smt. Parnashree Banerjee, Advocate

For the Respondent : Shri Saurabh Kumar, Addl. CIT (DR)

Date of Hearing : 16.10.2017

Date of Pronouncement : 08 .11.2017

ORDER

Per M.Balaganesh, AM

1. This appeal by the Assessee arises out of the order of the Learned Commissioner of Wealth Tax (Appeals)-Siliguri [in short the Id CWT(A)] in Appeal No.05/CWT(A)/SLG/2014-15 dated 16.12.2016 against the order passed by the DCWT, Circle-2, Siliguri [in short the Id AO] under section 16(3) read with section 17 of the Wealth Tax Act, 1957 (in short “the Act”) dated 29.12.2014 for the Assessment Year 2011-12.

2. The only effective issue to be decided in this appeal is as to whether the Ld. CWTA was justified in upholding the action of the Ld. AO including a sum of Rs. 48,81,761/- representing cash on hand of the proprietor business of the assessee to the net wealth of the assessee, in the facts and circumstances of the case.

3. The brief facts of this issue is that the assessee is an individual and had filed return of wealth in response to notice u/s 17 of the Act on 23.05.2014 declaring net wealth at Rs. 33,72,300/-. The assessee had prepared his personal balance sheet as well as his business balance sheet. The business balance sheet is prepared in respect of his proprietary concern. The business balance sheet contained cash in hand of Rs. 48,81,761/- as on 31.03.2011 (i.e. the valuation date). The personal balance sheet contained cash in hand of Rs. 1,52,861/-. The assessee included the cash in hand as per his personal balance sheet amounting to Rs. 1,52,861/- in the statement of net wealth. In respect of total assets reflected in the balance sheet of the proprietary concern of the assessee, the assessee arrived at the global valuation of business assets at Rs. 9,47,580/- in accordance with Schedule III Rule 14 Part-D of the Rules for determining the value of assets. The details of valuation as per Schedule III Rule 14 are as under:

SURENDER PAL SINGH NANAK COMPLEX, SEVOKE ROAD SILIGURI			
VALUATION OF BUSINESS ASSETS OF M/S SURENDER SINGH AS ON 31ST MARCH, 2011			
I. MOVABLE PROPERTY :			
a. Fixed Assets			
W.D.V. as on 31.03.2011			
Air Conditioner	4,145.00	NIL	
Gebnerator	22,332.00	NIL	
Travera Car	290,042.00	290,042.00	
Tools & Machinery	130,581.00	NIL	
Hydraulic Jack	69,279.00	NIL	
Vehicle	39,933.00	39,933.00	
Welding Generator	5,352.00	NIL	329,975.00
b. Loans & Advances			
Ajit Singh Lamba	500,000.00	NIL	
Kulzung Bhutia	170,000.00	NIL	
T. Lachungpa	7,150,000.00	NIL	NIL
	<u>7,820,000.00</u>		
c. Sundry Debtors			
	<u>900,141.00</u>		NIL
d. Bank Balances			
IDBI Bank -Savings A/c	9,647,984.00	NIL	
Central Bank of India -Savings A/c	1,919.00	NIL	
State Bank of India -Savings A/c	5,243.00	NIL	
IDBI - Current A/c	28,390.00	NIL	NIL
	<u>9,683,536.00</u>		
e. Others			
Input VAT	<u>8,407.00</u>		NIL
f. Cash -In -Hand			
			4,881,761.00
			<u>5,211,736.00</u>
Less : Liabilities			
IDBI Bank OD A/c		18,687,417.00	
Less : Liabilities relating to assets on which Wealth Tax not Payable			
	<u>1,86,87,417.00 x 1,84,12,084.00</u>	<u>14,423,261.00</u>	<u>4,264,156.00</u>
	2,38,55,512.00		
VALUE OF INTEREST IN PROPRIETORSHIP FIRM			<u>947,580.00</u>

4. The Ld. AO completed the wealth tax assessment by adding cash balance as on the valuation date in the sum of Rs. 48,81,761/- reflected in the balance sheet of the proprietary concern as an eligible asset u/s 2(ea) of the Act. This action of the Ld. AO was upheld by the Ld. CWTA. Aggrieved, the assessee is in appeal before us on the following grounds:

1. That the Ld. CWT(A) erred in having upheld the addition of Rs. 48,81,761/- on account of cash in hand to the net wealth of the appellant without considering that such cash in hand was the productive asset of the appellant's proprietorship concern and hence does not fall within the scope and ambit of the provisions of Section 2(ea)(vi) of W.T. Act, 1957 and, therefore, the purported finding on that behalf is arbitrary, erroneous, unwarranted and perverse.

2. That without any prejudice to the above, the Ld. CWT(A) erred in not having considered that the said cash in hand of Rs. 48,81,761/- was duly considered in Global Valuation of Asset as per provision of Rule 14 of Part D of Schedule III of W.T. Rules and the resultant Global Valuation of Rs. 9,47,580/- has been included in the statement of net wealth.

3. That the decision in the case of CIT vs. Smt. M.R. Ushasree (2010) 229 CTR 52 (Ker) cited by the Ld. CWT(A) is not directly on the application of Global Valuation of business asset as per Rule 14 of Part D of Schedule III of W.T. Rules, whereas the said Rule specifies the statutory basis for adjustments of net wealth of business assets as a whole having regard to the Balance Sheet of such business and hence the Ld. CWT(A) erred in not having allowed such adjustment made by the assessee in respect of cash in hand of the proprietorship business.

4. That the Ld. CWT(A) ought to have considered that in the case of Smt. M.R. Ushasree (supra), the assessee was having only an individual balance sheet which reflected the affairs of the business, whereas in the case of the present assessee, he maintained two separate balance sheets and reflected cash in hand separately in the balance sheet of the proprietorship concern.

5. We have heard the rival submissions. We find that the assessee had submitted a statement showing computation of global value of assessee's business at Rs. 9,47,580/- as per procedure laid down in Schedule III Rule 14 of the Rules for determining the

value of assets. The Ld. CWTA however rejected this argument of the assessee relying on the decision of the Hon'ble Kerala High Court in the case of CIT vs. Smt. K.R. Ushasree reported in 332 ITR 75 (Ker). We find that the Hon'ble Kerala High Court rejected the contention of the assessee that so far as businessman are concerned, cash in hand was an eligible asset and therefore, it was not covered by Section 2(ea)(vi) of the Act. However, we find from the perusal of the said judgment of the Hon'ble Kerala High Court, the assessee therein, never argued for application of global valuation of the business in terms of Rule 14 Schedule III of the Rules for determining the value of assets. It is an admitted fact that cash in hand in the sum of Rs. 48,81,761/- in the instant case represents the cash belonging to the proprietary concern of the assessee and hence it is a business asset for the assessee. The said cash along with other eligible business asset had to be subjected to valuation for the purpose of Wealth Tax Act only in terms of Rule 14 Schedule III of the Rules. Hence we find that the assessee had rightly included the said cash of Rs. 48,81,761/- as part of his workings under global valuation of the business asset in terms of Schedule III Rule 14 of the Rules. We also find that the reliance placed by the Ld. AR on the decision of Co-ordinate Bench of this Tribunal in the case of Bimal Kr. Singh vs. DCWT, Circle-44, Kolkata in WTA No. 13/Kol/2010 for assessment year 2006-07 dated 20.07.2011 is directly on this point wherein it was held that the cash balance generated out of cash sales would be treated as business asset and as such business asset shall not be treated as cash in hand within the meaning of Section 2(ea)(vi) of the Act. The ratio laid down in this decision is squarely applicable to the facts of the instant case. In our considered opinion, we hold that cash in hand referred to in Section 2(ea)(vi) of the Act represents only the personal cash of the assessee emanating from his personal balance sheet. It nowhere contemplated the inclusion of cash which is held as business asset. If it is so held, then the purpose of valuation method prescribed in Schedule III Rule 14 of the Rule would become redundant. Admittedly, the cash in hand of Rs. 48,81,761/- represents the cash

belonging to the business of the assessee and thereby partakes the character of a business asset.

6. In view of these findings and in the facts and circumstances of the case, we have no hesitation in directing the Ld. AO to delete the addition made in the sum of Rs. 48,81,761/- from the value of net wealth representing business cash. Accordingly, the grounds 1 to 4 raised by the assessee are allowed.

7. The assessee has raised ground no. 5 with regard to direction given by the Ld. CWTA to Ld. AO for verification of value of land at Mohali, and at flat at Delhi. At the time of hearing, no arguments were advanced by the Ld. AR with regard to this ground. Hence, we do not find any justifiable reason to interfere with the order of the Ld. CWTA. Accordingly, ground no. 5 raised by the assessee is dismissed.

8. The ground nos. 6 and 7 raised by the assessee are general in nature and does not require any specific adjudication.

9. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Court on 08.11.2017

Sd/-
[S.S. Viswanethra Ravi]
Judicial Member

Sd/-
[M.Balaganesh]
Accountant Member

Dated : 08.11.2017
SB, Sr. PS

Copy of the order forwarded to:

1. Surendra Pal Singh, C/o, Calcutta Automobile Engineering Works, Sevoke Road, Siliguri-734001.
2. DCIT, Circle-2, Siliguri
- 3..C.I.T.-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Senior Private Secretary
Head of Office/D.D.O., ITAT, Kolkata Benches