

TaxHelpline Case No. 117 of 2001

Madras High Court India

Tax Cases Nos. 1221 to 1223 of 1984 (References Nos. 1040 to 1042 of 1984), decided on 26th March, 1998

Before N. V. Balasubramanian and P. Thangavel, JJ

C.V.. Rajan for the Commissioner. Mrs. Hema Sampath for the Assessee

COMMISSIONER OF WEALTH TAX

VS

HALAI MENON. ASSOCIATION

Wealth tax-----Charge of tax---Individual---Association of persons not liable to wealth tax as individual under S.3---Indian Wealth Tax Act, 1957, S.3.

The expression "individual" cannot be stretched to include entities which were deliberately omitted and left out of the charging section of the Wealth Tax Act:

Held, that the assessee, a registered association, was not liable to wealth tax as an individual.

CWT v. Ellis Bridge Gymkhana (1998) 229 ITR 1 (SC) fol

JUDGMENT

N. V. BALASUBRAMANIAN, J.---The assessee is a registered association registered under the Societies Registration Act for the promotion of friendship, understanding and unity among the Halai Menon Community. The only dispute that arose before the wealth tax authorities as well as before the Tribunal was whether the said association can be regarded as an association of persons or body of individuals and whether it could be subjected to wealth tax. The Tribunal held that the assessee cannot be classified as an individual within the meaning of section 3 of the Wealth Tax Act. The Revenue has challenged the said order of the Tribunal, seeking a reference and the case has been stated on the following question of law at the instance of the Revenue:

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal's finding that the assessee is not liable to wealth tax as an individual is sustainable in law?"

We hold that the view of the Appellate Tribunal that the assessee is not liable to wealth tax as an individual is correct and the decision of the apex Court in CWT v. Ellis Bridge Gymkhana (1998) 229 ITR 1, is a clear authority for the proposition of law that an association of persons cannot be taxed under section 3 of the Wealth Tax Act, as there is a deliberate omission by the Legislature to exclude a firm or an association of persons from the purview of wealth tax. Therefore, in our opinion, the expression "individual" cannot be stretched to include entities which were deliberately omitted and left out of the charging section of the Wealth Tax Act.

Following the said decision of the Supreme Court, we hold that the assessee cannot be subjected to wealth tax and our answer to the question referred to us is in the affirmative and against the Revenue. However, there will be no order as to costs.

Reference answered

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