

## COMMISSIONER OF WEALTH TAX, WEST BENGAL

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v.

## ALUMINIUM CORPORATION LTD.

August 30, 1971

[K. S. HEGDE AND A. N. GROVER, JJ.]

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*Wealth Tax Act (27 of 1957), s. 7(2)—Value of assets as shown in balance-sheet—Whether should be accepted—Depreciation, if permissible,*

*Practice and Procedure—Remand by Supreme Court—High Court examining competency of Supreme Court—Propriety.*

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The assessee-company made a revaluation of its assets, namely, land, buildings, plant and machinery in 1956, and the increase in value was carried over to subsequent years. For the assessment year 1957-58, on the questions, (1) whether in determining the net value of the assets under s. 7(2) of the Wealth Tax Act the value as shown in the balance sheet should be substituted by the written down value as per the income tax records, and (2) whether, even on the basis of the value as shown in the balance sheet an adjustment on account of normal depreciation of the assets for arriving at the net value is justified, the High Court, on reference, answered the first question in favour of the assessee and did not answer the second question. This Court, on appeal, set aside that judgment and remanded the case to the High Court. Meanwhile, the High Court, for the assessment years 1958-59 and 1959-60, also on reference answered the first question in favour of the assessee and did not answer the second question.

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After remand, with respect to the assessment year 1957-58, the High Court, answered the first question in favour of the Revenue and the second question in favour of the assessee.

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In appeal to this Court, with respect to all the three assessment years,

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**HELD :** (1)(a) Wealth Tax is levied on the value of the assets of the assessee on the valuation date. Section 7(2) of the Wealth Tax Act requires the Wealth Tax Officer to have regard to the balance sheet. It is open to the assessee to satisfy the authorities that the valuation in the balance sheet is not correct, but, in the absence of such proof, the Wealth Tax Officer will be justified in proceeding on the basis that the value shown in the balance-sheet is correct, because, no one can know the value of the assets of a business better than those who are in charge of the business.

[488 D—F]

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Therefore, in the present case, the revaluation of the assets made in 1956, undoubtedly afforded a sound basis for valuing the assessee's assets in the absence of any evidence showing that it was incorrect, and the answer to the first question for all the three years should be in favour of the Department. The High Court was in error in holding that the evidence afforded by the balance sheet could not be considered as *prima facie* evidence of the value of the assets. [488 F—H]

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*C.I.T. West Bengal v. Aluminium Corporation, 78 I.T.R. 483 (S.C.) and Kesoram Industries Case, 59 I.T.R. 767 (S.C.), followed.*

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(2) But the assets in the present case were subject to wear and tear and there was no evidence to show that the market value of these assets had gone up after the revaluation in 1956. Hence, when the value of the

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**A** assets had to be determined on the concerned valuation dates, the Wealth Tax Officer should have deducted from the 1956 valuation the value of the depreciation of those assets after the revaluation. Therefore, the answer to the second question for all the three years should be in favour of the assessee. [488 H; 489 A—B]

**CIVIL APPELLATE JURISDICTION :** Civil Appeals Nos. 1691 and 1962 of 1968 and 1075 of 1971.

**B** Appeals by certificate/special leave from the judgments and orders dated August 18, 1967 and May 7, 1970 of the Calcutta High Court in Matters Nos. 298 of 1963 and 69 of 1962.

**C** *S. C. Manchanda, R. N. Sachthey, B. D. Sharma and S. P. Nayar*, for the appellant (in all the appeals).

**C** *B. Sen, N. R. Khaitan, B. P. Maheshwari and O. P. Khaitan*, for the respondent (in all the appeals).

The Judgment of the Court was delivered by

**D** *Hegde, J.* Civil Appeals Nos. 1691-1692 of 1968 are by certificate and Civil Appeal No. 1075 of 1971 is by special leave. These appeals are brought by the Commissioner of Wealth Tax, West Bengal. In all these appeals we are dealing with the case of the same assessee, namely Aluminium Corporation Ltd. The relevant assessment years are 1957-58, 1958-59 and 1959-60 and the material valuation dates are 31-3-1957, 31-3-1958 and 31-3-1959.

**E** So far as the assessment of the assessee for the assessment year 1957-58 is concerned the matter had come up to this Court on an earlier occasion. This Court remanded the case to the High Court to decide the case afresh, if necessary after reframing the first question in the light of the principles enunciated by this Court in the order of remand—see *Commissioner of Wealth Tax, West Bengal v. Aluminium Corporation Ltd.*<sup>(1)</sup>

**F** The High Court after expressing doubts about the competence of this Court to remand the case brought to this Court under the provisions of the Wealth Tax Act has answered the first question in favour of the Revenue. So far as the second question is concerned it has answered the same in favour of the assessee. As against that order the Department has brought Civil Appeal No.

**G** 1075 of 1971. The other two appeals relate to the assessment of the assessee for the assessment years 1958-59 and 1959-60. Here, the High Court has answered the first question referred to it in favour of the assessee and did not answer the second question.

**H** The material facts in all these three appeals are more or less similar and for deciding the questions of law arising for decision, it is sufficient if we set out the facts as set out in the Statement

(1) 78 I.T.R. 483.

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of the case submitted by the Tribunal to the High Court along with the questions of law arising for decision in respect of the assessment of the assessee for the assessment years 1958-59 and 1959-60. From that Statement we get the following facts :

The assessee company's fixed assets namely, land, buildings, plant and machinery were valued at Rs. 2,19,982/-, Rs. 36,13,906/- and Rs. 93,78,868/- respectively as on 31-3-1955. This valuation did not take into account depreciation for the year ending 31-3-1955 in respect of buildings, plant and machinery. A year later *i.e.* on 31-3-1956 the same assets were valued at Rs. 4,99,340/-, Rs. 1,08,40,840/- and Rs. 1,89,23,449/-. This valuation was also without taking into account depreciation for the year ending 31-3-1956 in respect of buildings, plant and machinery. The increase in the value of these assets, after making allowance for all additions made to the assets, was due to the revaluation of the assets made by the company before 31-3-56. The increase in value on account of revaluation was to the tune of Rs. 2,83,871/-, Rs. 72,31,204/- and Rs. 98,67,481/- in the case of land, buildings and machinery respectively. The Directors of the company in their annual report for the year ended 31-3-1956 noted that these assets had been revalued so as to indicate a true picture of their value and that evaluators had given due consideration to depreciation which the buildings, plant and machinery had been already subjected to. A corresponding capital reserve of an amount of Rs. 1,73,82,556/- was created against the increase in the value of the assets. The increase in the value of assets effected before 31-3-1956 was carried over to 31-3-1958 and 31-3-59, the relevant valuation dates and the capital reserve aforesaid continued to remain unaltered.

The company in submitting its return of wealth-tax as at the relevant valuation dates claimed before the Wealth-tax Officer that its lands, buildings and machinery should be valued according to the written down value as per income-tax records after allowing depreciation according to the Income-tax Act. According to the company the value of these assets should be respectively, Rs. 2,26,786/- Rs. 12,38,109/- and Rs. 11,46,979/- as at 31-3-1958 and Rs. 2,28,188/-, Rs. 13,64,198/- and Rs. 9,16,626/- as at 31-3-1959. These written down values were determined on the basis of the original cost as it stood before the assets were revalued in 1955-56. The Wealth-tax Officer in including these assets in the net wealth of the company, however, took the value thereof to be Rs. 5,10,657/-, Rs. 1,02,53,392/- and Rs. 1,71,24,711/- as at 31-3-1958 and Rs. 5,12,059/-, Rs. 1,02,71,383/- and Rs. 1,65,02,524/- as at 31-3-1959 as shown in the company's balance sheets as at 31-3-1958 and 31-3-1959. The Wealth-tax Officer was of the view that the valuation of the

- A** assets having been made under section 7(2) of the Wealth Tax Act, there was no need to analyse individually the value of particular assets. He also took the view that the value of the assets after revaluation was the correct one. He rejected the request of the company to make an allowance for the wear and tear of the assets even on the basis of the revised values for the period between the date of the revaluation of the assets and the Wealth-tax valuation dates.

- B** The Appellate Assistant Commissioner of Wealth-tax disagreed with the Wealth-tax Officer and allowed the assessee's appeal holding that the value of the block assets should be taken to be their written down value as per the income-tax records and not the value shown by the assessee in its balance sheets.

- C** The Department appealed to the Tribunal against the order of the Appellate Assistant Commissioner. The Tribunal allowed the appeal partially. It upheld the action of the Wealth-tax Officer in determining the value of the fixed assets on the basis of the values shown in the balance sheets of the company, but it, however, held that the assessee was entitled to an allowance in respect of these assets on account of wear and tear during the period subsequent to the revaluation. Thereafter at the instance of the assessee as well as the Commissioner, the Tribunal stated a case and submitted the following questions seeking the opinion of the High Court.

- D** (1) Whether on the facts and in the circumstances of the case, in determining the net value of the assets of the assessee company under section 7(2) of the Wealth-tax Act, the value of the company's fixed assets as shown in its balance sheet as on the valuation dates should have been substituted by the written down value of those assets as per the company's income-tax records ?
- E** (2) If the answer to the first question is in the negative, whether on the facts and in the circumstances of the case, for the purposes of determining the net value of the assets of the company under section 7(2) of the Wealth-tax Act an adjustment on account of normal depreciation of the fixed assets from the date of revaluation of the assets to the valuation dates was justified ?

- F** Now reverting back to the assessment of the assessee for the assessment year 1957-58, we have earlier noted the decision of the High Court. Aggrieved by the answer given by the High

Court on the second question, the Commissioner has brought Civil Appeal 1075 of 1971. The assessee has not appealed against the decision of the High Court on the first question.

Before advertiring to the merits of the contentions of the parties, we consider it necessary to observe that we are wholly unable to comprehend the attitude of the High Court while dealing with the case. The High Court quite clearly exceeded its jurisdiction in examining the competence of this Court to remand an appeal brought to this Court under the provisions of the Wealth-tax Act. It would have done well to remind itself that it was bound by the orders of this Court and could not entertain or express any argument or views challenging their correctness. The judicial tradition and propriety required that court not to attempt to sit on judgment over the decisions and orders of this Court.

Now turning to the second question referred to the High Court, we agree with the High Court that the valuation of the assets shown in the balance sheet is not conclusive. Wealth-tax is levied on the value of the assets of the assessee on the valuation date. Section 7(2) of the Wealth-tax Act merely requires the Wealth-tax Officer to have regard to the balance-sheet. It is open to the assessee to satisfy the authorities under the Wealth-tax Act that the valuation shown in the balance sheet is not correct. But in the absence of such a proof, the Wealth Tax Officer will be justified in proceeding on the basis that the value shown in the balance-sheet is correct because no one can know the value of the assets of a business more than those who are in charge of the business. In other words, the value of the assets shown in the balance sheet can justifiably be made the primary basis of valuation for the purpose of the Wealth-tax Act. In other words it can be taken as *prima facie* evidence of the value of the assets. Here again the High Court ignoring the ratio of the decision of this Court in *Kesoram Industries*<sup>(1)</sup> case as well as the other decisions of this Court held that the evidence afforded by the balance sheet cannot be considered as primary evidence or *prima facie* evidence of the value of the assets of the business. To say the least, the learned Chief Justice indulged in an unnecessary mental exercise forgetting the fact that the law as interpreted by this Court is binding on all courts and Tribunals.

Turning to the facts of the assessee's case, the revaluation of the assets was made in 1956. That revaluation in the absence of any evidence to show that it was incorrect, undoubtedly afforded a sound basis for valuing the assessee's assets. But then, when the value of those assets had to be determined on the valuation dates concerned in these cases, the Wealth-tax Officer should have deducted from the 1956 valuation the value of the depreciation of

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A those assets after the date they were revalued. Undoubtedly those assets were subject to wear and tear and there was no evidence to show that the market value of those assets had gone up after they were revalued in 1956.

B Our conclusion regarding the valuation for the year 1957-58 applies with equal force as regards the valuation for 1958-59 and 1959-60.

C Following the decision of this Court in *Aluminium Corporation of India Ltd.'s case*<sup>(1)</sup> we answer the first question referred to the High Court in all these appeals in favour of the Department. On this question we see no justification for the reservations made by the High Court in the judgment under appeal in Civil Appeal No. 1075 of 1971.

D Now turning to the second question, we are of the opinion that the finding of the Tribunal on that question was essentially a finding of fact. That finding was based on relevant evidence. It is not vitiated in any manner. In our opinion, the Tribunal took a correct view of the scope of s. 7(2) of the Wealth-tax Act and its approach to the question was in accordance with law. Hence our answer to the second question is in the affirmative and in favour of the assessee. In the result, these appeals are allowed to the extent mentioned above. In the circumstances of these cases, we direct the parties to bear their own costs both in the High Court as well as in this Court.

V.P.S.

*Appeals allowed.*