

COMMISSIONER OF WEALTH TAX, CALCUTTA

v.

SMT. ANJAMLI KHAN

NOVEMBER 6, 1990

[K.N. SINGH AND S. RANGANATHAN, JJ.]

Wealth Tax Act, 1957: Section 2(e)—Compensation receivable on acquisition of Estate—Whether 'asset' includible in the net wealth.

West Bengal Estates Acquisition Act, 1953: Section 17(1)—Compensation receivable on acquisition—Whether an 'asset' liable to Wealth Tax.

The Respondent-assessee owned vast agricultural properties which came to be vested in the State Government by virtue of the provisions of the West Bengal Estates Acquisition Act, 1953. The assessee was entitled to receive compensation in respect of those lands. For the assessment years 1957-58, 1958-59 and 1959-60, the Wealth Tax Officer required the assessee to furnish particulars of the compensation due from the Government. The assessee was unable to give the particulars, but stated that his agricultural income from the lands used to be assessed at Rs.1,00,000 per annum and that the taxes thereon amounted to Rs.20,000 per annum. Taking the net agricultural income at Rs.80,000 and applying the provisions of Section 17(1) of the Acquisition Act the Wealth Tax Officer estimated the compensation payable to the assessee at Rs.3,40,000. Deducting the interim compensation received by the assessee, he estimated the amount of compensation at Rs.3,25,000 for the assessment year 1957-58 and at Rs.3,00,000 each for the assessment years 1958-59 and 1959-60.

The assessee preferred appeals to the Appellate Assistant Commissioner on the ground that the compensation receivable was not an 'asset' under the Wealth Tax Act. The appeal was dismissed. Aggrieved, the assessee appealed to the Tribunal. The Tribunal allowed the appeals. On a request from the Revenue, the Tribunal referred the question of includibility of the estimated compensation amounts in the net wealth of the assessee. The High Court answered the question in favour of the assessee.

Against the said decision of the High Court the Revenue has preferred these appeals claiming that the decision of this Court in *Pandit*

A *Lakshmi Kant Jha v. CWT Bihar & Orissa*, [1973] 90 ITR squarely governs the issue.

Allowing the appeals, this Court,

B HELD: 1.1. The right to receive compensation in respect of the lands acquired under the West Bengal Estates Acquisition Act, 1953 is an asset which should be included in the net wealth of the assessee. There is no difference in principle between the Bihar Land Reforms Act, 1950 and the West Bengal Estates Acquisition Act, 1953. The High Court and the Tribunal erred in holding that there was no asset the value of which could be included in the net wealth of the assessee by reference to the lands of the assessee which vested in the State Government.

C 1.2. The reference to the High Court not only raised the question whether there was any asset capable of inclusion in the net wealth but also the question as to whether the sums estimated by the Wealth Tax Officer on this account can be included in the net wealth of the assessee as on the relevant dates. Neither the Tribunal nor the High court have touched upon this aspect in view of their conclusion that there was no 'asset' at all capable of inclusion in the estate.

E *Pandit Lakshmi Kant Jha v. Commissioner of Wealth Tax, Bihar & Orissa*, [1973] 90 ITR 97; *Mrs. Khorshed Shupoor Chenai v. Assistant Controller of Estate Duty*, [1980] 122 ITR 21; *Joginder Singh & Ors. v. State of Punjab & Anr.*, [1985] 1 SCC 231; relied on.

F *Commissioner of Wealth Tax v. O.C. Mahatab*. [1970] 78 ITR 214; referred to.

G 2. It would not be necessary to determine the question whether the valuation of the said asset at the figures taken by the wealth-tax officer is correct or not. This is a question which will have to be considered and decided by the Tribunal while disposing of the matter in conformity with this judgment. The Wealth Tax Officer has included in the net wealth the entire amount of the compensation that would eventually become payable to the assessee without making any allowance, as was done in *Pandit Lakshmi Kant Jha's* case, for the circumstance that the compensation was payable at a future date. It is clear that, where the compensation is to be determined and is payable at a date much later than the valuation date, the value of the assessee's right to receive the compensation can only be the present value (i.e. the

value as on the valuation date) of the amount that may be determined and paid as compensation in future. It cannot be equal to the amount of compensation payable under the Act. The present value of the future compensation will, therefore, have to be determined on a consideration of all relevant aspects that may be put forward before the Tribunal.

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Pandit Lakshmi Kant Jha v. Commissioner of Wealth Tax, Bihar & Orissa, [1973] 90 ITR 97, referred to.

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3. In the instant case, the Tribunal ought to have held that the value of the assessee's right to receive compensation under the provision of the West Bengal Estates Acquisition Act, as on the relevant valuation dates, had to be included in the assessee's net wealth for the assessment years 1957-58, 1958-59 and 1959-60. However, the amounts of compensation determined by the Wealth Tax Officer cannot be included in the net wealth; but only the value, as on the relevant valuation dates, of the assessee's right to receive compensation estimated in accordance with proper principles can be included in the net wealth of the assessee. What such estimated value should be will have to be decided by the Tribunal after giving both the parties an opportunity to put forward their respective contentions.

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CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 864-866 (NT) of 1976.

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Appeals by Certificate from the Judgment and Order dated 2.8.1974 of the Calcutta High Court in Matter No. 695 of 1967.

J. Ramamurthy, S. Rajappa and Ms. A. Subhashini for the Appellant.

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Dr. Shankar Ghosh, Rathin Das and P.K. Mukherjee (NP) for the Respondent.

The Judgment of the Court was delivered by

RANGANATHAN, J. These three appeals arise out of the assessments to wealth tax of Kumar Amarendra Lal Khan (since deceased) for the assessment years 1957-58, 1958-59 and 1959-60. Shri Khan (hereinafter referred to as the "assessee") owned vast agricultural properties which, by virtue of the provisions of the West Bengal Estates Acquisition Act, 1953 (hereinafter referred to as the "Act"), came to vest in the State of West Bengal. Under the Act, the

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- A** assessee was entitled to receive compensation in respect of the lands. The mode of determination and payment of compensation has been prescribed under sections 16 and 17 read with section 23 of the Act. In completing the assessments of the assessee to wealth tax for the assessment years above mentioned (in respect of which the relevant valuation dates were 14.4.1957, 14.4.1958 and 14.4.1959 respectively), the
- B** Wealth Tax Officer required the assessee to furnish particulars of the compensation due from the Government. The assessee was unable to furnish such particulars but stated that his agricultural income from the lands used to be assessed at Rs.1,00,000 per annum and that the taxes thereon amounted to Rs.20,000 per annum. Taking the net agricultural income at Rs.80,000 and applying the provisions of section 17(1)
- C** of the Act, the Wealth Tax Officer estimated the compensation payable to the assessee at Rs.3,40,000. Deducting there from the interim compensation already received by the assessee, the amount of compensation due to him was estimated at Rs.3,25,000 as on 14.4.1957, Rs.3,00,000 as on 14.4.1958 and Rs.3,00,000 as on 14.4.1959.
- D** The assessee preferred appeals to the Appellate Assistant Commissioner contending that the compensation receivable from the West Bengal Government was not an 'asset' which could be included in the net wealth of the assessee under the Wealth Tax Act. The Appellate Assistant Commissioner negated this contention and affirmed the assessments. The assessee preferred further appeals to the Tribunal.
- E** The Tribunal, following an earlier decision dated 29.4.1963 in WTA Nos. 302 to 304 of 1961-62 accepted the contention put forward by the assessee. In that decision, the Tribunal had discussed the provisions of the Act and concluded:

- F** "It is clear, therefore, that the assessee had no right to receive any compensation on the respective valuation dates much less from the date of the vesting, as the departmental representative contends. If the assessee had any right at all, it was at the best, an imperfect right which has no market value whatever. But our considered view is that the assessee had no right whatever perfect or imperfect on the
- G** respective valuation dates to receive any compensation for the acquisition of his estates by the State Government."

Following this decision, the Tribunal excluded the aforesaid sums of Rs.3,25,000, Rs.3,00,000 and Rs.3,00,000 respectively from the computation of the net wealth of the assessee for the assessment years in

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On the request of the Commissioner of Wealth Tax, the Tribunal referred the following question to the High Court at Calcutta for its opinion:

“Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the sum of Rs.3,25,000, Rs.3,00,000 and Rs.3,00,000 estimated by the Wealth-tax Officer as the amounts of compensation due to the assessee under the provisions of the West Bengal Estate Acquisition Act, 1953 as on the relevant valuation dates for the assessment years 1957-58, 1958-59 and 1959-60 respectively could not be included in the assessee’s net wealth as computed under the provisions of the Wealth-tax Act, 1957?”

The above reference was heard by a Bench of Calcutta High Court (Sabyasachi Mukherji J. and Janan J.). The High Court disposed of the reference in favour of the assessee following its earlier decision in the case of *Commissioner of Wealth Tax v. O.C. Mahatab*, [1970] 78 ITR 214. On behalf of the department, the attention of the court had been drawn to the decision of this Court in the case of *Pandit Lakshmi Kant Jha v. Commissioner of Wealth Tax, Bihar & Orissa*, [1973] 90 ITR 97. The Court, however, observed that the said decision of the Supreme Court had been concerned with the Bihar Act, and that it had been pointed out in the decision of the Calcutta High Court in *Mahatab’s* case (supra) that the provisions of the Bihar Act were different materially on this aspect from the provisions of the Bengal Act. The Court, therefore, concluded that the decision of the Calcutta High Court in *Mahatab’s* case should be followed. Accordingly the High Court answered the question referred to it in the affirmative and in favour of the assessee. Aggrieved by the order of the High Court, the Commissioner of Wealth-tax has preferred these appeals.

On behalf of the appellant, it is submitted that the decision of this Court in *Pandit Lakshmi Kant Jha’s* case (supra) squarely governs the issue in the present case. In that case, the assessee was the former Maharajadhiraja of Darbhanga. For the assessment year 1957-58, the relevant valuation date for which was 31.3.1957, the Wealth-tax Officer took the view that the value of the compensation, which the assessee had received in respect of its estate which had been acquired by the Government under the Bihar Land Reforms Act (Bihar Act XXX of 1950), should be included as part of the net wealth of the assessee. The amount of compensation payable to the assessee by the

- A Government of Bihar for the acquisition of the estate had been determined at Rs.36,87,419 but the determination by the appropriate compensation officer was much later than the relevant valuation date. Under the provisions of the Bihar Act, the amount of compensation, in terms of the compensation assessment roll is finally published, was payable in cash or in bonds or partly in cash and partly in bonds.
- B The bonds could be either negotiable or non-negotiable and non-transferable and were payable in forty equal annual instalments to the person named therein and carried interest at two and a half per cent per annum with effect from the date of issue. It was contended on behalf of the assessee that, as the compensation had not been determined on the valuation date and further as the amount of compensation was not payable immediately but was spread over a period of forty years, no amount could be included as part of the net wealth of the assessee by reference to the compensation payable in respect of the lands acquired by the assessee. The Wealth-tax Officer rejected this contention. He held that the right to receive compensation represented a valuable asset and had to be included in the net wealth of the assessee. However, as whole of the compensation had not been paid on the date of valuation, the Wealth-tax Officer took the present value of the compensation to be 75 per cent of its face value. This assessment was affirmed by the Appellate Assistant Commissioner as well as the Appellate Tribunal though, so far as the valuation was concerned, the Tribunal reduced the value of the asset included on this account to 65 per cent of the face value as against 50 per cent, contended for by the assessee. At the instance of the assessee a reference was thereafter made to the High Court of Patna which answered the question in favour of the Revenue. The assessee preferred a further appeal to the Supreme Court. Two contentions were advanced before the Supreme Court on behalf of the appellant in regard to this question. It was argued, in the first instance, that the compensation payable to the assessee under the Bihar Land Reforms Act did not constitute an asset as can be taken into account in computing the total wealth of the assessee. In the alternative, it was urged that, in computing the value of compensation, the Tribunal should have taken the value to be 50 per cent and not 65 per cent of the amount of compensation. This Court held that neither of these contentions was well founded. After setting out the provisions of Bihar Ac, the Court concluded:
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“The assessee, in our opinion, was vested with a right to get compensation immediately his land was vested in the State. Section 2(e) of the Act defines “assets” to include property of every description, movable or immovable, but

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does not include certain categories of property with which we are not concerned. The word "property", as mentioned by this Court in the case of *Ahmed G.H. Ariff v. Commissioner of Wealth Tax*, [1970] 76 ITR 471 is a term of the widest import and, subject to any limitation which the context may require, it signifies every possible interest which a person can clearly hold and enjoy. The definition of the "assets" as given in section 2(e) of the Act, though not exhaustive, shows its wide implitude and we see no reason as to why the right to receive compensation cannot be included amongst the assets of an assessee."

The Court then dealt with the arguments that the amount of compensation payable to the assessee had not been determined by the compensation officer by the valuation date and that, in any event, as the amount of compensation was not payable immediately it could not be included in the assets of the assessee. Repelling this contention, the Court-observed:

"Assuming for the sake of argument that the amount of compensation payable to the assessee had not been determined by the Compensation Officer by the valuation date, that fact would not justify the exclusion of the compensation payable from the assets of the assessee. The right to receive compensation became vested in the assessee the moment he was divested of his estate and the same got vested in the State in pursuance of the provisions of the Bihar Land Reforms Act. As the estate of the assessee which vested in the State was known and as the formula fixing the amount of compensation was prescribed by the statute, the amount of compensation was to all intents and purposes a matter of calculation. The fact that the necessary calculation had not been made and the amount of compensation had consequently not been qualified (sic) by the valuation date would not take compensation payable to the assessee but of the definition of assets or make it cease to be property. The right to receive compensation from the State is a valuable right, more so when it is based upon statute and the liability to pay is not denied by the State. It is no doubt true that the compensation is not payable immediately and its payment might be spread over a period of 40 years, but that fact would be relevant only for the purpose of evaluating the right to compensation. It would

A not detract from the proposition that the right to receive compensation, even though the date of payment is deferred, is property and constitutes asset for the purpose of the Wealth—tax Act.”

B The Court further pointed out that a number of High Courts had held that the compensation payable on the abolition of estates or acquisition of lands can be taken into account for purposes of the wealth-tax Act.

C Learned counsel for the appellant submits that this decision directly covers the present case. He also submits that the principle enunciated in the above decision has been re-affirmed in *Mrs. Khorshed Shapoor Chenai v. Assistant Controller of Estate Duty*, [1980] 122 ITR 21 where *Pandit Lakshmi Narain Jha's* case (supra) has been specifically followed and also in *Joginder Singh & Ors. v. State of Punjab & Anr.*, [1935] 1 SCC 231.

D We are of the opinion that the contention of the appellant is well founded. In our opinion, the decision in *Pandit Lakshmi Narain Jha's* case (supra) clearly covers the principal issue in the present case as to whether the value of the right possessed by the assessee to receive compensation for the acquisition of his lands is an asset which has to be evaluated and included in his net wealth as on the relevant valuation dates. Only two grounds have been urged before us to distinguish the earlier decision in *Pandit Lakshmi Narain Jha's* case (supra). The first is the one referred to by us earlier which has also been touched upon by the High Court. The High Court both in the present case and in *Manatab's* case (supra), which has been followed therein, has taken the view that the provisions of the West Bengal Estates Acquisition Act and the Bihar Land Reforms Act were not similar. We have gone through the provisions of the two Acts. We consider it unnecessary to encumber this judgment by extracting the relevant provisions. Broadly speaking, the scheme under both the Acts is the same and we are unable to see any material distinction so far as the present question is concerned between the provisions of West Bengal Act and those of the Bihar Act. It has been pointed out by this Court in *Pandit Lakshmi Kant Jha's* case (supra) that the moment an assessee's land is acquired or otherwise vests in the State, he becomes entitled to compensation. This is both by virtue of the statutory provisions in question as well as by virtue of the fundamental right guaranteed under Article 31 of the Constitution as it then stood. Naturally, the amount of compensation could not be determined immediately. The provisions of the two Acts

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in question set out the elaborate procedure for this quantification. The preparation of the compensation roll, the determination of the precise amounts due and a decision as to the mode of payment of the amounts, are all matters to be sorted out in course of time but all this, as pointed out in *Pandit Lakshmi Kant Jha's* case (supra), does not alter the position that, as on the date on which the estate vested in the Government, a right to receive compensation had accrued in favour of the assessee and that right is a valuable asset which is includible in the net wealth of the assessee. The second point of distinction sought to be made is that, in *Jha's* case (supra), the amount of compensation had been determined (though after some time) whereas, in the present case, even till today the compensation rolls have not been published and the amount of compensation has not been determined. This again is only a point of difference but not one which would justify a distinction in principle. It has been pointed out in *Pandit Lakshmi Kant Jha's* case (supra) that, by the mere fact that the quantification of compensation or its payment is deferred, the right to receive compensation does not cease to be an asset includible for the purpose of wealth tax.

We are, therefore, of the opinion that there is no difference in principle between the Bihar Act and the West Bengal Act. The High Court and the Tribunal erred in holding, that there was no asset the value of which could be included in the net wealth of the assessee by reference to the lands of the assessee which vested in the State Government.

The question referred in the present case to the High Court, which has been extracted earlier, was, however, of much wider amplitude. It not only raised the question whether there was any asset capable of inclusion in the net wealth but also the question as to whether the sums estimated by the Wealth-tax Officer on this account can be included in the net wealth of the assessee as on the relevant dates. Neither the Tribunal nor the High Court have touched upon this aspect in view of their conclusion that there was no 'asset' at all capable of inclusion in the estate. Since we have come to the conclusion that the right to receive compensation in respect of the acquired lands is an asset which should be included in the net wealth, it will now become necessary to determine the second question whether the valuation of this asset at the figures taken by the Wealth-tax Officer is correct or not. This is a question which will have to be considered and decided by the Tribunal while disposing of the matter conformably to this judgment. We express no opinion on this question but would clarify an important aspect thereof which the assessee had urged

A before the Tribunal and which the Tribunal should keep in mind while disposing of the matter finally. As we have mentioned earlier, the Wealth Tax Officer has included in the net wealth the entire amount of the compensation that would eventually become payable to the assessee without making any allowance, as was done in *Jha's* case (supra), for the circumstance that the compensation was payable at a future date. It is clear that, where the compensation, as here, is to be determined and is payable at a date much later than the valuation date, the value of the assessee's right to receive the compensation can only be the 'present' value (i.e., the value as on the valuation date of the amount) that may be determined and paid as compensation in future. It cannot be equal to the amount of compensation payable under the Act. The present value of the future compensation will, therefore, have to be determined on a consideration of all relevant aspects that may be put forward before the Tribunal.

D For the above reasons, we allow these appeals set aside the order of the High Court and answer the question referred to the High Court by the Tribunal in the following manner:

E "The Tribunal ought to have held that the value of the assessee's right to receive compensation under the provisions of the West Bengal Estates Acquisition Act as on the relevant valuation dates had to be included in the assessee's net wealth for the assessment years 1957-58, 1958-59 and 1959-60. However, for the reasons stated above, the amounts of compensation determined by the Wealth tax Officer at Rs.3,27,000, Rs.3,00,000 and Rs.3,00,000 respectively cannot be included in the net wealth; but only the value, as on the relevant valuation dates, of the assessee's right to receive compensation estimated in accordance with proper principles can be included in the net wealth of the assessee. What such estimated value should be will have to be decided by the Tribunal while disposing of the matter conformably to our judgment. In doing so, the Tribunal should give both parties an opportunity to put forward their respective contentions."

The appeals are disposed of accordingly. In the circumstances, however, we make no order as to costs.

G.N.

Appeals allowed.