

COMMISSIONER OF WEALTH TAX, ORISSA, BHUBANESWAR

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v.

SMT. BINAPANI CHAKRAVARTY

MARCH 28, 1995

[S.C. AGRAWAL, B.L. HANSARIA AND
SUJATA V. MANOHAR, JJ.]

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Wealth Tax Act, 1957:Section 5(i)(viii)—Whether the word jewellery prior to the amendment of the section and the introduction of the Explanation by the Finance Act (No.2) of 1971 could include jewellery made of silver, platinum or any other precious metal or alloy without previous or semi-precious stones embedded on them—Held:Even before coming into force of the explanation jewellery would include such ornaments.

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The Finance Act of 2 of 1971 amended the provisions of Section 5(1)(viii) of the Wealth Tax Act, 1957 with retrospective effect from 1st of April, 1963. By the same Finance Act of 1971, the Explanation, however, was made effective only prospectively from 1.4.1972.

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It has been urged by the assessee that it is on account of Explanation 1 to Section 5(1)(viii) that the term "jewellery" could also include ornaments made only of gold, silver, platinum or any other precious metal or alloy though no precious stones are embedded in them. It further contended that in the absence of such an Explanation during the relevant period, the term "jewellery" would cover only ornaments studded with jewels or precious metal or alloy. The High Court allowed the petition holding that Explanation I by Finance Act (No.2) of 1971 would not take in gold ornaments without precious or semi-precious stones embedded in them. Against that order, Revenue preferred the present appeals.

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Allowing the appeals, this Court

HELD :1. Undoubtedly, under s.5(1) of the Wealth-Tax Act the Explanation has been introduced by the Finance Act of 1971, partly to clarify the position. The Explanation provides an extensive definition of "jewellery". It includes precious ornaments made of gold, silver, platinum or any other precious metal whether or not containing any precious or semi-precious stones. It also covers, within the meaning of the term, such

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A items which may or may not be sewn into any wearing apparel. It also includes precious and semi-precious stones whether or not set in any furniture, utensils or apparel. The Explanation may have extended the meaning of "jewellery" to cover, for example, precious stones by themselves or precious stones set in furniture or utensils. But in so far as it includes ornaments made of gold, silver, platinum or any other precious metal or alloy, it is merely clarificatory in nature. Merely because ornaments made of gold and silver are now expressly included in Explanation 1, it is not possible to hold that they were earlier excluded from the meaning of the term "jewellery". [1188-B-D]

C *Commissioner of Wealth-Tax, Delhi-II v. Smt. Savitri Devi*, 140 ITR 525, affirmed.

Commissioner of Wealth-Tax, Delhi-III v. Rukmani Devi, 142 ITR 41; *Commissioner of Wealth-Tax, West Bengal-I, Calcutta v. Aditya Vikram Birla*, 114 ITR 711, over ruled.

D *Commissioner of Wealth-Tax, M.P. v. Smt. Sonal K. Amin*, 127 ITR 427; *Commissioner of Wealth-Tax, Gujarat-I v. Jayantilal Amratlal*, 102 ITR 105; *Commissioner of Wealth-Tax, Lucknow v. His Highness Maharaja Vibhuti Narain Singh*, 117 ITR 246 and *Nandkishore Girdharilal Modi v. Commissioner of Wealth-Tax, M.P.*, 132 ITR 868, referred to.

E CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1206-1212 of 1977.

F From the Judgment and Order dated 26.9.1975 of the Orissa High Court in S.J.C.Nos. 87-93 of 1974.

J. Ramamurthy and Ms. A. Subhashini for the Appellant.

The following Judgement of the Court was delivered by

G MRS. SUJATA V. MANOHAR, J. These appeals by special leave arise from a common judgment of the High Court of Orissa in seven Reference Applications before it under Section 27(1) of the Wealth Tax Act, 1957. The High Court was required to consider the following question:-

H "Whether the word 'jewellery' in section 5(1)(viii) of the Wealth-

Tax Act, 1957 prior to the amendment of the section and the introduction of the Explanation by the Finance Act (No. 2) of 1971 could take in gold ornaments without precious or semi-precious stones embedded on them?"

The High Court has answered the question thus:-

"The word 'jewellery' in section 5(1)(viii) of the Wealth Tax Act of 1957 prior to amendment of the provision and introduction of Explanation I by the Finance Act (No. 2) of 1971 would not take in gold ornaments without precious or semi-precious stones embedded on them."

The Commissioner of Wealth Tax has filed the present appeals from the above decision.

The relevant assessment years are 1965-66 to 1971-72. The relevant valuation dates are 31st of March of each of the years in question. We are, therefore, required to consider the provisions of Section 5(1)(viii) of the Wealth Tax Act, 1957 as in force during the relevant period. Section 5 of the Wealth Tax Act, 1957 deals with exemptions from wealth tax granted in respect of certain assets. Section 5(1)(viii), prior to its amendment by the Finance Act 2 of 1971, was as follows:-

"5(1): Subject to the provisions of sub-section (1A) wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee --

(1) x x x x x x

x x x x x x

(viii) furniture, household utensils, wearing apparel, provisions and other articles intended for the personal or household use of the assessee."

Section 5(1)(viii) was interpreted in the context of the provisions of Section 5(1)(xiii) and 5(1)(xv) by this Court in the case of *Commissioner of Wealth-Tax, Gujarat v. Arundhati Balkrishna*, 77 ITR 505. The Court said that jewellery intended for the personal use of the assessee would come within

A the scope of the exemption granted under Section 5(1)(viii)—being "other articles intended for the personal..... use of the assessee". As a consequence, the Finance Act 2 of 1971 amended the provisions of Section 5(1)(viii) with retrospective effect from 1st of April, 1963, to read as follows:-

B "5(1)(viii): furniture, household utensils, wearing apparel, provisions and other articles intended for the personal or household use of the assessee, *but not including jewellery.*"

(underlining ours)

C By the same Finance Act of 1971, Explanation 1 was also added to Section 5(1)(viii). The Explanation, however, was made effective only prospective-ly, with effect from 1.4.1972. Explanation 1 is as follows :-

"Explanation 1 : For the purposes of this clause and clause (xiii), 'jewellery' includes -

D (a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel :

E (b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel."

F In the present appeals we are concerned with the period during which the retrospectively amended Section 5(1)(viii) was in operation but without Explanation 1 (which came into effect from 1st of April, 1972). We have to consider what is excluded from the benefit of the exemption granted under Section 5(1)(viii). Is it only those items of jewellery which are studded with precious or semi-precious stones or whether all ornaments and jewellery made out of precious metals (such as gold, silver or platinum or alloys with precious metals) are excluded from the exemption, although they may not be studded with precious or semi-precious stones?

H It has been urged before us by the assessee that it is on account of Explanation 1 to Section 5(1)(viii) that the term "jewellery" would also include ornaments made only of gold, silver, platinum or any other precious

metal or alloy containing such precious metal, even though no precious stones are embedded in them. It is submitted that in the absence of such an Explanation during the relevant period, the term "jewellery" would cover only ornaments studded with jewels or precious stones. It would not cover in its ambit ornaments made only of gold, silver, platinum or any other precious metal or alloy.

To interpret the word "jewellery" as such without the benefit of Explanation 1, we must first consider how the term "jewellery" is ordinarily understood. In the New Shorter Oxford Dictionary, "jewellery" is defined as :

"gems or ornaments made or sold by jewellers, especially precious stones in mountings; jewels collectively or as a form of adornment."

"Jewel" is defined as :

"An article of value used for (personal) adornment, especially one made of gold, silver, or precious stones..... a precious stone, a gem; especially one worn as an ornament."

The terms "jewel" and "jewellery", therefore, refer to articles of value used for adornment, especially those made from gold, silver or precious stones. The terms are, therefore, wide enough to cover not merely precious stones or articles of adornment made with the use of precious stones, but also other articles of value made from gold, silver, platinum or precious metals. Ordinarily speaking, when a person talks about jewellery, he includes ornaments which are made of gold, silver or any other precious metal also irrespective of whether these articles have precious stones embedded in them or not.

The difference which is sought to be made out between ornaments which contain precious stones, and ornaments of gold, silver and platinum which do not have precious stones embedded in them, appears to be artificial. The term "jewellery" is not confined in ordinary parlance to only those ornaments which have precious stone embedded in them. It covers all articles of value used for adornment. A jewellery shop normally sells not just precious stones or articles made of precious stones; it certainly sells ornaments of gold and silver. It may be that in our local languages, different kinds of bangles, necklaces and other ornaments carry different

A and specific names depending upon their design and craftsmanship. But these are all covered by the generic term "jewellery".

B Undoubtedly, the Explanation has been introduced by the Finance Act of 1971, partly to clarify this position. The Explanation provides an extensive definition of "jewellery". It includes ornament made of gold, silver, platinum or any other precious metal whether or not containing any precious or semi-precious stones. It also covers, within the meaning of the term, such items which may or may not be sewn into any wearing apparel. It also includes precious and semi-precious stones whether or not set in any furniture, utensils or other article, or worked or sewn into any wearing
 C apparel. The Explanation may have extended the meaning of "jewellery" to cover, for example, precious stones by themselves or precious stones set in furniture or utensils. But insofar as it includes ornaments made of gold, silver, platinum or any other precious metal or alloy, it is merely clarificatory in nature. Merely because ornaments made of gold and silver are now expressly included in Explanation 1, it is not possible to hold that
 D they were earlier excluded from the meaning of the term "jewellery").

E In the case of *Commissioner of Wealth-Tax, Delhi-II v. Smt. Savitri Devi*, 140 ITR 525, a Division Bench of the Delhi High Court held that the word "jewellery" as set out in the dictionaries and as understood in common parlance, includes gold ornaments made for personal use. These are almost always a jeweller's job and cannot be made by anyone. The Delhi High Court has held that the Explanation cannot take away the ordinary meaning of the word "jewellery". The artificially enlarged meaning as given
 F by the definition in Explanation 1 also includes, by way of abundant caution, the natural meaning of the term. Hence jewellery, even before coming into force of the Explanation 1, would include gold ornaments. We agree with the reasoning of the Delhi High Court. This view is reiterated in *Commissioner of Wealth-Tax, Delhi-III v. Rukmani Devi*, 142 ITR 41.

G A Similar view has been taken by the Gujarat High Court in the case of *Commissioner of Wealth-Tax, Gujarat-I v. Jayantilal Amratlal*, 102 ITR 105; by the Alahabad High Court in the case of *Commissioner of Wealth-Tax, Lucknow v. His Highness Maharaja Vibhuti Narain Singh*, 117 ITR 246, and by the Madhya Pradesh High Court in the case of *Nandkishore Girdharilal Modi v. Commissioner of Wealth-Tax, M.P.*, 132 ITR 868. Another Bench
 H of the Madhya Pradesh High Court in the case of *Commissioner of Wealth-*

Tax, M.P. v. Smt. Sonal K. Amin, 127 ITR 427 has, however taken a contrary view. The Calcutta High Court has also taken a contrary view in the case of *Commissioner of Wealth-Tax, West Bengal-I, Calcutta v. Aditya Vikram Birla* 114 ITR 711. For the reasons which we have set out above, we do not agree with the contrary view expressed by the Calcutta High Court in *Aditya Vikram Birla's case* (supra) and by the Madhya Pradesh High Court in *Sonal K. Amin's case* (supra). The Calcutta High Court has placed some emphasis on different vernacular terms used for different types of ornaments. In our view, this is not, in any manner, conclusive of the question whether the term "jewellery" includes ornaments made of precious metals such as gold or silver. The contrary decisions are, therefore, overruled.

In the premises, the appeals are allowed with costs.

K.S.D.

Appeals allowed.