Cwt Vs. Gaju

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Court : Allahabad

Decided On : Mar-10-2005

Reported in : [2006]151TAXMAN192(All)

Appeal No. : WT Reference No. 2 of 1993 10 March, 2005

Appellant : Cwt

Respondent : Gaju

Advocate for Pet/Ap. : Shambhoo Chopra, *for the Applicant*

Judgement :
ORDER

By the Court

Income-tax Appellate Tribunal, Delhi, has referred the following question of law under section 27(3) of the Wealth-tax Act, 1957, (hereinafter referred to as 'the Act'), for opinion to this Act:

'Whether in the circumstances of the case, the ITAT was legally correct to confirm the order of the Deputy Commissioner (Appeals) on the point of value of land at the rate of Rs. 2.80 per sq. yds. ?'

2. The present Reference relates to the assessment years 1979-80 to 1984-85.

3. Briefly stated the facts giving rise to the present reference are as follows :

The land belonging to the respondent had been notified for acquisition under U.P. Avas Evam Vikas Parishad Act and under section 4(1) of Land Acquisition Act, 1894 for the scheme of Shastri Nagar, Meerut, on 9-5-1970. The possession of the land under section 17 of the Land Acquisition Act was taken under section 17 of the Land Acquisition Act on different dates which are as follows:

1. On 14-12-1977 as per SLAO order dated 25-3-1980,43,432 sq. yds.

2. On 25-3-1980 as per SLAO order dated 5-9-1984, 14,420 sq. yds.

3. On 25-2-1981 as per SLAO order dated 5-9-1984, 6,655 sq. yds.

Compensation for these lands was also announced is per first order dated 25-3-1980 at the rate of Rs. 2.80 per sq. yds. had been announced whereas for the second and third plots of land the rate of Rs. 17.50 was announced. In the year 1894, the Land Acquisition Act was amended by virtue of which the respondent became entitled to enhanced compensation which was awarded suo motu by the Special Land Acquisition Officer after the passing of the Land Acquisition (Amendment) Act, 1894. The respondent had disclosed the value of enhanced compensation awarded prior to passing of the Land Acquisition (Amendment) Act, 1894 whereas the assessing authority has assessed the value of the land as per enhanced compensation. The Tribunal has observed that the Deputy Commissioner (Appeals) had recorded a finding of fact in his appellate order, that the respondent had not filed any appeal against the order of Acquisition or the rate of compensation awarded to him. The Tribunal has, accordingly, held that the respondent was entitled to the compensation at the rate at which it was granted prior to passing of the said order. The respondent had disclosed the value of enhanced compensation at Rs. 1,50,000 for the assessment years 1979-80 to 1983-84 and a sum of Rs. 2,00,000, for the assessment year 1984-85. There was no dispute with regard to the value disclosed by the respondent on account of right to receive enhanced compensation. The dispute before the Tribunal related to the valuation of land and the compensation receivable in respect of the said land. The Tribunal, considering the facts and circumstances of the case, held that the respondent was not entitled to receive additional compensation by virtue of Land Acquisition (Amendment) Act, 1894 till the said Act was passed and, accordingly, such compensation could not be held as an asset for the period prior to coming into force of the said Amendment Act.

4. We have heard Sri Shambhoo Chopra, learned Standing Counsel for the revenue. Nobody has appeared for the respondent.

5. Learned Standing Counsel for the revenue submitted that the Special Land Acquisition Officer had awarded Rs. 2.80 per sq. yds. Compensation for that portion of land which was acquired on 14-12-1977 and Rs. 17.50 per sq. yds. for the land acquired on 25-3-1980 and 25-2-1981, therefore, the value of the land cannot be universally taken at Rs. 2.80 per sq. yds. The submission appears to have some force. As the Special Land Acquisition Officer had himself awarded the compensation on different dates and rates, the amount awarded as compensation should have been taken as respective value of the land.

6. We, accordingly, answer the question referred to us in the negative, i.e., in favour of the revenue and against the assessee. However, there shall be no order as to costs.