M. Ravindranath and anr. Vs. Appropriate Authority and ors.

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SooperKanoon Citation : sooperkanoon.com/830086

Court : Chennai

Decided On : Aug-08-1997

Reported in : (1997)143CTR(Mad)206

Appeal No. : Writ Petition No. 292 of 1993

Appellant : M. Ravindranath and anr.

Respondent : Appropriate Authority and ors.

Judgement :
ORDER

UNDER S. 269UD--Validity.

Ratio :

Opinion on the part of the Engineer being blindly adopted by the appropriate authority is not a safe basis on which to hold that a transaction which is otherwise bona fide is to be regarded as an instance of deliberate undervaluation with a view to avoid payment of tax, therefore, order passed under section 269UD cannot be satisfied.

HELD

When an appropriate authority holds that the property has been undervalued, its determination is to be based upon firm foundations of fact and does not give room for arbitrariness. The authority is not required under the terms of the Act to direct purchase of each and every property in respect of which declarations are filed before it. It is not constituted as a buying agent for the government. It is only required to ensure that parties to the transactions transact honestly and do not avoid payment of tax by deliberately undervaluing the property. The reasons given by the Executive Engineer which reasons have been adopted by the appropriate authority, viz., that the other property was situated in a Cross Road in a dead end are not factors of which it can be said with certainty that a purchaser will offer a lesser price than for a property situated on a main road situated opposite to a school and which may not be ideal for use as a residence. A person looking for a house to live in is more likely to prefer a house which is situate a little in the interior than on the main road opposite to a school where there are no neighbours. The choice of the figure of 15% as an addition therefore, cannot be said to be a relative, rational and objective addition figure. It is more in the nature of the opinion of the Engineer as to what he thinks should be addition. Such opinions on the part of the Engineer being blindly the adopted by the appropriate authority is not a safe basis on which to hold that a transaction which is otherwise bona fide is to be regarded as an instance of deliberate undervaluation with a view to avoid payment of income-tax.

Case Law Analysis :

C. B.Gautam v. Union of India & Ors. (1993) 199 ITR 530 (SC) relied.

Application :

Also to current assessment years

Income Tax Act 1961 s.269UD