

Commissioner of Wealth Tax Vs. Simpson and General Finance Co. Ltd. (No. 1)

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Court : Chennai

Decided On : Oct-26-2005

Reported in : [2006]285ITR429(Mad)

Judge : P.D. Dinakaran and ;N. Kannadasan, JJ.

Acts : Urban Land Ceiling Act; Tamil Nadu Urban Land (Ceiling and Regulation) Act

Appeal No. : Tax Case (A) Nos. 931 and 932 of 2005

Appellant : Commissioner of Wealth Tax

Respondent : Simpson and General Finance Co. Ltd. (No. 1)

Advocate for Pet/Ap. : T. Ravikumar, Adv.

Disposition : Appeal dismissed

Judgement :

P.D. Dinakaran, J.

1. The above tax case appeals are directed against the order of the Income-tax Appellate Tribunal in W.T.A. Nos. 27 and 163/Mds. of 1999, dated February 17,

2005.

2. The Revenue is the appellant. The assessment years involved are 1995-96 and 1996*97. The assessee filed a return of wealth for the assessment years 1995-96 and 1996-97. It was found that the value adopted for the property situate at Sembiam and Madhavaram was very low. The values were obtained from the District Valuation Officer, and the Assessing Officer, fixed the value based on the valuation officer's report.

3. Aggrieved by the assessment order, the assessee filed an appeal before the Commissioner of Income-tax (Appeals), contending that the Assessing Officer ought to have appreciated that the land under reference comes within the purview of the Urban Land Ceiling Act and that as on the date of valuation, the land should be valued only as per the compensation payable under the Act. The Commissioner of Income-tax (Appeals) found that the matter has already been considered in favour of the appellant on identical facts and allowed the appeal.

4. On further appeal by the Revenue before the Income-tax Appellate Tribunal, the Tribunal dismissed the appeal holding that the compensation payable under the Tamil Nadu Urban Land (Ceiling and Regulation) Act should be the basis for valuing the property and not by adopting the market rate.

5. Aggrieved against the same, the Revenue has preferred these appeals raising the following substantial question of law:

Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the immovable property subject to the urban land ceiling laws should only be valued as per the compensation payable under the Urban Land Ceiling Act?

6. It is fairly submitted by learned Counsel appearing for the appellant that the issue raised in the question is covered against the Revenue by the decision of the Gujarat High Court in CIT v. G.S. Krishnavati Vahuji Maharaj Kalyanraiji Temple : [2003]264ITR517(Guj) . In the said decision, the Gujarat High Court held as under (page 519):

Whenever there is any restriction on the transfer of any land, it is a matter of common knowledge that the value of the property or land, as the case may be, would be normally reduced. In the instant case, it was not open to the assessee to sell the land and, therefore, the value of the land in question cannot be more than what the Government was to offer to the assessee under the provisions of the Ceiling Act.

7. In view of the above settled law, we are of the considered view that the Appellate Tribunal was right in holding that the immovable property subject to urban land ceiling laws should only be valued as per the compensation payable under the Urban Land Ceiling Act. Accordingly, the question of law referred to above is answered in the affirmative, against the Revenue and in favour of the assessee. The appeals are dismissed. No costs.

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