**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Tax Appeal No. 80 of 2007 With
Tax Appeal No. 82 of 2007 With
Tax Appeal No. 83 of 2007 With
Tax Appeal No. 84 of 2007 With
Tax Appeal No. 85 of 2007

Shri Yogesh Vitthaldas Zaveri - HUF,
Age : 43 years,
Occupation : Business,
C/o. V.B. Jewellers,
Kasari Bazar, Aurangabad.
.. Appellant
(Original assessee)

versus

1. Commissioner of Wealth-Tax,
Aurangabad.

2. Wealth-Tax Officer,
Ward 2(2),
Aurangabad.

.. Respondents
(Original respondents)

....

Parties in all the appeals are same.

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Mr. M.K. Kulkarni, Advocate, with Mr. R.R. Chandak, Advocate, for the appellant.

Mr. Alok Sharma, Advocate, for respondent nos.1 and 2.

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CORAM : A.V. NIRGUDE &
A.M. BADAR, JJ.

DATE : 16TH JULY 2015

ORAL JUDGMENT *(Per A.V. Nirgude, J.)* **:**

1. Heard learned Counsel for respective parties.

2. As these appeals raise common question questions, they are taken together and are being disposed of by this common judgment.

3. These are assessee's appeals under the provisions of the Wealth-Tax Act, 1957 (For short, **"the Act"**). The assessee held two landed properties which are in and around Aurangabad, which is a Corporation City. From 1998 to 2003, the assessee did not file returns under the Act, on assumption that the assets (landed property) would attract Wealth Tax. The assessment was reopened in 2003. The assessee then submitted returns in which the market value of the assets were shown in such a manner, that they would not attract Wealth Tax. The Assessing Officer, however, did not accept the statement about value of the assets. He referred the case for valuation of the assets to the District Valuation Officer, who opined that the assets was much higher and, therefore, the Assessing Officer held that the value of the assets of the assessee would attract Wealth Tax. Demand of Wealth Tax was made for the years 1998 to 2003. The assessee went in appeal. The appeal was partly allowed. The appellate Commissioner reduced the valuation of the assets and thereby reduced the tax liability. This judgment was challenged before the

Appellate Tribunal by both the parties. But both the appeals were dismissed. As against this, these appeals are preferred only by assessee.

4. The first question that is required to be decided here is, whether any substantial question of law arises in these appeals. In order to answer this, one must also elaborate on certain factual aspects of the case. As stated above, there are two pieces of lands, one which is situated within the local limits of the Municipal Corporation and the other is at some distance. Both these pieces of lands are assessed as defined by the provisions of the Act. Value of such assets was expected to be stated by the assessee himself. He ought to have stated that these plots would fetch certain amount towards consideration if the plots are made available in open market for sale and the price a willing buyer would pay.

5. Sections 16A and 17 of the Act provide substantive provisions in respect of assessment. Section 16A provided, that for the purpose of making an assessment or for the purpose of finding out market value of any asset for assessment, the Assessing Officer could refer the valuation of any asset to a Valuation Officer. *'Valuation Officer'* is a term which is defined under Section 2(r) and includes a District Valuation Officer. Schedule III of the Act provides methods for determining market value of an asset.

6. We went through the provisions of Schedule III of the Act, at the request of the learned Counsel for the respondent, and found that the valuation of the assets could have been made only as per method prescribed in Article 20 in Part 'H' of Scheduled III. Sub-Section 1 of

Section 7, in Chapter II, of the Wealth Tax Act, reads thus :-

> " Subject to the provisions of sub-section (2), the value of any asset, other than cash, for the purposes of this Act shall be its value as on the valuation date determined in the manner laid down in Schedule III."

Article 20 in Part 'H' of Scheduled III of the Wealth Tax Act, which deals with *'valuation of assets in other cases'*, reads thus :

> "(1) The value of any asset, other than cash, being an asset which is not covered by rules 3 to 19, for the purposes of this Act, shall be estimated to be the price which, in the opinion of the Assessing Officer, it would fetch if sold in the open market on the valuation date.
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> (2) Notwithstanding anything contained in sub-rule (1), where the valuation of any asset referred to in that sub-rule is referred by the Assessing Officer to the Valuation Officer under section 16A, the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date.

> (3) Where the value of any asset cannot be estimated under this rule because it is not saleable in the open market, the value shall be determined in accordance with such guidelines or principles as may be specified by the Board from time to time by general or special order. "

7. On perusal of the impugned judgments, we found that the Assessing Officer committed no error by referring the case to the District Valuation Officer. The District Valuation Officer then calculated market value of the assets and sent back his report. The assessee tried to challenge the correctness of the opinion of the District Valuation Officer at every stage. At the first appellate stage, part of his objection was approved and the value of the assets taxed for the purpose of Wealth Tax was reduced by the first court.

8. The learned Counsel for the appellant, for the purpose of showing that there is a substantial question of law involved in these appeals, contended that the authorities erred in adopting erroneous method for finding out market value of the assets in question. He specifically asserted, that instead of placing reliance on the provisions of Scheduled III of the Act, the authorities erroneously resorted to the provisions of Section 50C of the Income Tax Act, 1961. He also asserted that the method adopted for valuation was totally alien to the provisions of the Act.

9. On perusal of the judgments, we found that this submission has no substance at all. The method utilized for determining market value

of the assets was done as per the provisions of the Act. No reference was made in the judgments, to provisions of Section 50C of the Income Tax Act, at all. So, the submission advanced at the Bar appears to be figment of imagination of the learned Counsel for the appellant. We perused the judgments very carefully and found that no substantial question of law would arise in this case.

10. In the result, the Appeals fail and the same are dismissed.

11. Pending Civil Applications in these appeals do not survive and the same stand disposed of.

(A.M. BADAR)
JUDGE

(A.V. NIRGUDE)
JUDGE

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