IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

ITA.No. 214 of 2015 ()
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AGAINST THE ORDER IN ITA 189/Coch/2014 of I.T.A.TRIBUNAL,COCHIN BENCH
DATED 06-02-2015

APPELLANT(S)/RESPONDENT/RESPONDENT/REVENUE:
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THE COMMISSIONER OF INCOME TAX,
KOCHI-2.

BY ADVS.SRI.CHRISTOPHER ABRAHAM, INCOME TAX DEP
SRI.K.M.V.PANDALAI, INCOME TAX DEPARTMENT

RESPONDENT(S)/APPELLANT/APPELLANT/ASSESSEE:
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SHRI K.THOMAS JOY,
SEENA TRAVELS, 26/1741,
KANATTU ROAD, THEVARA,
KOCHI.

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN ITA.214/15

APPELLANT'S EXHIBITS:

ANNEXURE A: TRUE COPY OF THE ASSESSMENT ORDER DATED 23.12.2010.

ANNEXURE B: TRUE COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX (APPEALS) II, KOCHI, DATED 10.12.2013.

ANNEXURE C: TRUE COPY OF THE ORDER OF THE INCOME TAX APPELLATE TRIBUNAL DATED 6.2.2015.

/True copy/

PS to Judge

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

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I.T.A.No.214 of 2015

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Dated this the 28th day of July, 2015

JUDGMENT

Antony Dominic, J.

1. Annexure A order of assessment was passed for the assessment year 2008-09 where, for the purpose of capital gains, the assessing officer estimated fair market value of the property at ₹36,000/-, rejecting the claim of the assessee that it was ₹1,00,000/- as on 1.4.1981. Similarly, towards commission paid, the assessee claimed an amount of ₹6,48,750/- but only ₹4,32,500/- was allowed. This was confirmed by the first appellate authority. But the appeal filed by the assessee was allowed by the Tribunal. It is this order of the Tribunal which is under challenge before us in this appeal filed by the Revenue.

2. Essentially, the question that arose before the Tribunal was whether the decision of the first appellate authority to accept the fair market value and the commission paid for sale of the property estimated by the assessing officer are correct or

not. On appreciation of the rival contentions and materials on record, the Tribunal allowed the appeal of the assessee. In such an adjudication, the findings are purely in the realm of facts and this order passed by the Tribunal, in our view, does not give rise to any question of law, to be considered by this Court in an appeal under Section 260A of the Income Tax Act.

Appeal fails and is accordingly dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

kkb.