IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.34532 and 34533 of 2015
and
M.P.Nos.1 and 1 of 2015

M.Gopinath Ramakrishnan	..	Petitioner in W.P.No.34532/2015
Madhu Parasuram	..	Petitioner in W.P.No.34533/2015

Vs

1.The Assistant Commissioner of Income Tax,
Non Corporate Circle - 15(1),
Chennai - 34.

2.The Principal Commissioner/ Commissioner of Income Tax,
New Block, 6th Floor,
124, Mahatma Gandhi Road,
Chennai - 34. .. Respondents in both the W.Ps

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records of the second respondent in F.No.6102/PCIT-6/2015-16 dated 19.10.2015 and to quash the same and further direct the respondents that the petitioners are not liable to any tax for the upward revised value more than the value mentioned in the supplemental agreement dated 01.11.2011.

For Petitioner : Mr.V.T.Gopalan, Sr. Counsel for M/s.S.Radha Gopalan in both the W.Ps

For Respondents: Mr.T.Pramod Kumar Chopda, Sr. Standing Counsel in both the W.Ps

COMMON ORDER

Seeking to quash the order of the second respondent dated 19.10.2015 and for a consequential direction to the respondents to the effect that the petitioners are not liable to pay any tax for the upward revised value more than the value mentioned in the supplemental agreement dated 01.11.2011, the present writ petitions have been filed.

2.The petitioners and one Kalyani are the joint owners of the property situated at Sholinganallur - I Village, Shonlinganallur Taluk, Kancheepuram District comprised in Survey No.439/4A. Originally, the petitioners and the co-owner proposed to sell the property for Rs.15.01 crores under joint development to Adroit Urban Developers Private Limited and also entered into an agreement dated 18.06.2011 and subsequently, a supplementary agreement was entered into on 01.11.2011. Despite the facts, the assessing officer reckoned the value of the property as Rs.23.28 crores. Against the same, the petitioners preferred an appeal under Section 246A of the Income Tax Act before the Commissioner (Appeals) and the same is pending. Pending appeal, the petitioners filed a petition seeking stay of collection of the tax payable pursuant to the reckoned value of Rs.15.52 crores and the same was rejected. Thereafter, the petitioners filed an application before the Commissioner of Income Tax - 6 and he also rejected the application dated 19.10.2015. Aggrieved by the same, the petitioners are before this Court.

3.Heard Mr.V.T.Gopalan, learned senior counsel appearing for the petitioners and the learned senior standing counsel appearing for the respondents.

4.Learned senior counsel for the petitioners submitted that the transactions were made in November, 2011 and the amendment to Section 54 F of Income Tax Act was brought with effect from 01.04.2015 and therefore, the same cannot be applied to the case of the petitioners. He has further submitted that the authority failed to take into account the fact that there has been no change in the consideration for the sale of the land.

5.The learned senior standing counsel on the other hand submitted that the petitioners did not comply the order dated 29.06.2015 and hence the petitioners are not entitled for any relief.

6.I have considered the rival submissions.

7.There is some discrepancy with regard to the guideline value of the properties. Hence, instead of 50% demand, the petitioners are permitted to pay 25% of the demand as per the order dated 29.06.2015 within a period of two weeks from the date of receipt of a copy of this order. It is further directed that the petitioners shall not alienate the properties pending disposal of the appeal. The writ petitions shall stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Assistant Commissioner of
Income Tax,
Non Corporate Circle - 15(1),
Chennai - 34.

2.The Principal Commissioner/
Commissioner of Income Tax,
New Block, 6th Floor,
124, Mahatma Gandhi Road,
Chennai - 34.

+2ccs to Mrs. S. Radha Gopalan, Advocate, S.R.No.58858 & 58857
+1cc to Mr.T. Pramod Kumar Chopda, Advocate, S.R.No.58803

AR(CS-II)
EU(17/11/2015)

W.P.Nos.34532 and 34533 of 2015