HON'BLE SRI JUSTICE G.CHANDRAIAH

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HON'BLE SRI JUSTICE CHALLA KODANDA RAM

I.T.T.A. No. 58 of 2015

DATE: 02.07.2015

Between:

Pr. Commissioner of Income-Tax .. Appellant

And

Smt. Rayna Pratap .. Respondent

JUDGMENT:- (per Hon'ble Sri Justice Challa Kodanda Ram)

This appeal filed by the Revenue under Section 260-A of the Income Tax Act, 1961 (for brevity "the Act") arises out of the Order dated 19.11.2014 in I.T.A.No. 561/Hyd/2012 passed by the Income-Tax Appellate Tribunal, Hyderabad Bench "B", Hyderabad relating to the assessment year 2008-2009. The following substantial question of law is said to be arising from the orders of the Tribunal for adjudication:

> "In the facts and circumstances of the case, whether the Hon'ble Tribunal (ITAT) is correct in law in upholding the order of the learned Commissioner of Income Tax (Appeals) determining the Fair Market Value of the land at the rate of Rs.700/- per sq. yard as against the value as per the Sub-Registrar Office of Rs.80/- per sq. yard thereby ignoring the fact that the respondent-assessee also did not produce basis for adoption of Fair Market Value as on 01.04.1981 at Rs.900/- per sq. yard?"

The respondent assessee sold certain properties and sought indexation in the process of assessment of taxable capital gains. As against the value adopted by the assessing officer at Rs.900/- per sq. yard, the Commissioner of Income Tax (Appeals), while following the principles laid down by the Tribunal in the earlier decided cases, fixed the rate at Rs.700/- per sq. yard as

against the Sub-Registrar's value of Rs.80/- per sq. yard. When the matter was carried before the Tribunal, the Tribunal followed its earlier judgment reported in the case of ***Asvhin Datla v. I.T.O***. wherein the principle laid down is to the effect that the fixation of the guideline value/basic value by the Sub-Registrar was not done on any scientific basis and at any rate the same is only for the purpose of collection of stamp duty which is the earning source of revenue to the Government. The function of arriving at the fair market value for the purpose of adjudication under the Income Tax Act vests with the assessing officer. As against the value adopted by the assessing officer, the first appellate authority, on
re-appreciation of the facts, came to the conclusion that the fair market value would be Rs.700/- per square yard. In doing so, the first appellate authority followed the principles laid down by various decisions and the Tribunal also did not find it necessary to interfere with the finding of fact.

The learned Senior Standing Counsel for Income-tax has also brought to the notice of this Court that in similar circumstances, the appeal in I.T.T.A.No. 111 of 2012 filed against the order of the Tribunal in the case of ***Commissioner of Income Tax vs. Ashven Datla*** was dismissed by this Court by judgment dated 26.11.2012.

In that view of the matter arriving at the market value primarily is a pure question of fact and we do not see any question of law much less substantial question of law for adjudication in the present appeal.

Hence, this appeal is devoid of merits and dismissed. No order as to costs.

As a sequel to dismissal of the appeal, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

02.07.2015

CHALLA KODANDA RAM,J

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