THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

W.T.A. Nos. 2 and 3 of 2014

DATED:21.01.2015

W.T.A.No. 2 of 2014

Between:
The Commissioner of Income Tax-II,,
Hyderabad.

… Appellant

And

M/s.Gulf Oil Corporation Limited,
Hyderabad.

….Respondent

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

W.T.A. Nos. 2 and 3 of 2014

Common Judgment: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

Both these matters are taken up for hearing as the same have been filed against the common judgment and order of the learned Tribunal dated 13.11.2013 in relation to the assessment years 2002-2003 and 2003-04 and are sought to be admitted on the following suggested questions of law:

> i. In the facts and circumstances of the case, whether the Hon'ble Tribunal (ITAT) is correct in law in holding that the vacant land as Sanky Tank, Bangalore is not an asset under the Wealth Tax Act, 1957 even when the capital gains computation filed by the Respondent-assessee for the assessment year 2004-2005 and 2005-2006 indicates that the said land is a vacant land ?
>
> ii. In the facts and circumstances of the case, whether the Hon'ble Tribunal (ITAT) is correct in law in holding that the Respondent-assessee has 18 buildings standing on the land at Sanky Tank, Bangalore despite the fact that the capital gains computation for the assessment year 2004-2005 and 2005-2006 shows that the land is vacant land and the assessee did not produce any evidence for retaining the buildings during the assessment year 2002-2003 and 2003-2004 ?
>
> iii. In the facts and circumstances of the case, whether the Hon'ble Tribunal (ITAT) is correct in law in holding that the land at Sanky Tank, Bangalore is used by the Respondent-assessee for its own business purpose even when the Respondent-assessee got the conversion of the land and entered into memorandum of agreement on 14.3.2002 with M/s. Udhyaman Investments (P) Ltd., for development of the land for residential and commercial purpose which clearly indicates that

the Respondent-assessee was not using the land for its own business either on 31.3.2002 or 31.3.2003 ?

iv. In the facts and circumstances of the case, whether the Hon'ble Tribunal (ITAT) is correct in law in holding that the flats which are not let out for residential purpose and also which are not qualified as commercial establishment or complex are exempt from Wealth Tax ?

v. In the facts and circumstances of the case, whether the Hon'ble Tribunal (ITAT) is correct in law in holding that merely because income is shown under the head of "house property" a property let out for business purpose is exempt from Wealth Tax ?

After hearing Mr. B. Narasimha Sarma, learned counsel for the Revenue and after going through the judgment and order of the learned Tribunal, it appears to us that the issue involved is whether the property in question should be brought under the purview of Wealth Tax or not.

The learned Tribunal, on fact, found that the properties are used by the asessee for business purposes. So Wealth Tax has no application to the facts of the case. In view of the aforesaid fact finding, which is not alleged to be perverse, we do not find any element of law to be decided in these appeals.

Hence, the appeals are dismissed.

Consequently, the miscellaneous applications, if any pending, shall also stand closed. No order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

21st January, 2015

Pnb