Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO.18 OF 2017

The Principal Commissioner of Income Tax, Panaji … Appellant

Versus

Prakash Kittur …Respondent

Ms S Linhares, *Advocate for the Appellant.*
Shri N Sardessai, *Senior Advocate with Ms G Kamat, Advocate for the Respondent.*

CORAM: G.S. PATEL & NUTAN D. SARDESSAI, JJ
DATED: 20th September 2017

PC:-

1. This is a companion appeal to Tax Appeal No 16 of 2017 which we have today dismissed by a separate order.

2. The facts are broadly similar. The questions raised here relate to land said to have been agricultural land exempted from tax and which was sold. The assessee Kittur was a confirming party and served as a facilitator or mediator in that transaction. The Income Tax Appellate Tribunal in the impugned order considered this land at Loliem that the Assessing Officer has held to be a capital asset. The Commissioner estimated the income at 12% of the total receipt. The Commissioner held the property to be agricultural. There then followed a discussion on the siting of this land and its distance from municipal limits of Canacona Municipality. This is hardly a question of law that we could possibly entertain. This has been settled by the decision in *Commissioner of Income Tax, Panaji v Debbie Alemao.*[1]

3. The second aspect in relation to this land was that when it was sold, it was sold as agricultural land. The consideration was treated as profit on account of sale of agricultural land and exempted from tax. The findings of the Commissioner in this regard were upheld. The view is not one that can be said to raise any question of law.

4. As to the proposed grounds or questions (c) and (d), these speak to the question of sufficiency of evidence. We have already found in the companion matter that the Commissioner's view was upheld by the bench and is not unreasonable. The Bench also found that as a matter of fact the original assessee passed away and not all records were readily available to the present Respondent, his son. The Commissioner and the bench correctly made allowance for this aspect.

5. For these reasons, we find no merit in this appeal either. It is also dismissed. No costs.

NUTAN D. SARDESSAI J. **G. S. PATEL J.**

1 (2011) 196 Taxman 230 (Bom).