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HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case (Wealth Tax Appeal) No. 147 of 2017

- Deputy Commissioner Of Wealth Tax 1(1), Central Revenue Building, Civil Lines, Raipur, Chhattisgarh

---- Appellant

Versus

- Smt. Rani Saraogi Subhash Road, Ganjpara Raipur, Chhattisgarh

---- Respondent1

Tax Case (Wealth Tax Appeal) No. 156 of 2017

- Deputy Commissioner Of Wealth Tax 1(1), Central Revenue Building, Civil Lines, Raipur, Chhattisgarh

---- Appellant

Versus

- Smt. Rani Saraogi Subhash Road, Ganjpara Raipur, Chhattisgarh

---- Respondent

Tax Case (Wealth Tax Appeal) No. 158 of 2017

- Deputy Commissioner Of Wealth Tax 1(1), Central Revenue Building, Civil Lines, Raipur, Chhattisgarh

---- Appellant

Versus

- Smt. Rani Saraogi Subhash Road, Ganjpara Raipur, Chhattisgarh

---- Respondent

And

Tax Case (Wealth Tax Appeal) No. 160 of 2017

- Deputy Commissioner Of Wealth Tax 1(1), Central Revenue Building, Civil Lines, Raipur, Chhattisgarh

---- Appellant

Versus

- Smt. Rani Saraogi Subhash Road, Ganjpara Raipur, Chhattisgarh

---- Respondent

For Appellants : Ms. Naushila Ali, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Ram Prasanna Sharma
ORDER

Per Prashant Kumar Mishra, J

05/02/2018

1. Heard.

2. The present Wealth Tax Appeals have been preferred by the Revenue assailing the common order passed by the Income Tax Appellate Tribunal on 8.5.2017 deciding four appeals pertaining to the assessment years 2006-2007, 2007-2008, 2008-2009 & 2010-2011, which in turn had arisen out of the common order passed by the Commissioner of Wealth Tax (Appeals) -I in respect of the corresponding assessment years.

3. Facts essential for appreciating the issue involved in these appeals, as gathered from Tax Case No. 158/2017, are that the Assessing Officer

issued notice under Section 17(1) of the Wealth Tax Act (hereinafter referred to as 'the Act') in respect of the relevant assessment years, directing the assessee to submit return of Income. The assessee submitted her return declaring different net wealth for different assessment years, however, that did not found favour with the Assessing Officer for the reason that the lands purchased by the assessee at village Dumartarai, Labhandi and Rawabhata, were not used for cultivation because in her income tax return she has not shown any agricultural income in the corresponding years. The Assessing Officer also found that the land is urban land which is not exempted from wealth tax, therefore, since agricultural activity is not carried on, the assessee is liable to pay wealth tax.

4. The appellate authority allowed the appeal filed by the assessee on the grounds *interalia* that reopening of the assessment was made without first recording reasons for reopening, therefore, it is null and void in view of the judgment in the matter of Radla Machinery Experts 197 ITR 493 (All) and Y. Narayan Chetty and Another, 35 ITR 388 (SC); the lands though situated in an urban area are urban agricultural lands, therefore, even if they are situated within municipal limits or outside municipal limits but within a distance of 8 km, they cannot be subjected to levy of wealth tax.

5. Learned counsel appearing for the Revenue would argue that the assessee has not filed any agricultural income on the subject properties, therefore, there being no proof or carrying out any agricultural activities, the Assessing Officer has rightly treated the land to be urban land fit for

construction and the interference by the appellate authority as well as by the Tribunal is not justified.

6. Having heard learned counsel for the Revenue and on perusal of the material available on record, it is manifest that there is no proof on record that the assessee had ever sought building permission for raising any construction over the subject land. Similarly, non-filing of the agricultural return would not make the land as urban land, on which, the assess intends to raise construction. The issue as to whether any construction has been carried on or intended to be carried on in future, is a question of fact which needs to be established by collecting evidence.

7. In absence of any proof that the lands are diverted and construction activity is shortly to be commenced, the finding by the appellate authorities that the land primarily being agricultural land is exempted from payment of wealth tax, does not appear to be illegal or perverse.

8. We are also of the considered opinion that the appellate Court has passed a reasoned order. It is the Assessing Officer who has passed a very cryptic unreasoned order which has rightly been interfered with by the appellate authority. No substantial question of law arises in these appeal. Accordingly, all the appeals are dismissed.

Sd/

(Prashant Kumar Mishra)
Judge

Sd/

(Ram Prasanna Sharma)
Judge

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