IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.11227 and 18486 of 2009
and
M.P.Nos.1, 1 and 2 of 2009

W.P.No.11227 of 2009:

G.Narasimhan ... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary,
Revenue Department,
Fort St. George, Chennai -600 009.

2. The Sub Registrar,
Vadavalli,
Coimbatore.

3. The District Collector,
Coimbatore District,
Coimbatore – 641 001.

4. Sri Ranganathar Industries Pvt. Ltd,
Rep.by its Managing Director,
V.Narayanasamy,
12/45, KNG Pudur Division,
Thadagam Main Road, Edayarpalayam,
Coimbatore – 641 025. ... Respondents

W.P.No.18486 of 2009:

G.Narasimhan ... Petitioner

Vs

1. The Commissioner of Income Tax (Appeals) – II,
Race Course Road,
Coimbatore – 641 018.

2. The Additional Commissioner of Income Tax,
   (Range - II) Kings Complex,
   347-A, Dr.Nanjappa Road,
   Coimbatore. ... Respondents

Prayer in W.P.No.11227 of 2009 :

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari, calling for the records of the second respondent comprised in his order dated 07.07.2005 found as an endorsement on the rear side of the sale deed dated 06.07.2005 bearing document No.3068/2005 registered in the office of the second respondent and quash the same as unconstitutional and ultra vires the provisions of the Indian Stamp Act 1899 and the rules framed thereunder.

Prayer in W.P.No.18486 of 2009 :

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified Mandamus, calling for the records of the second respondent comprised in his assessment order dated 23.12.2008 passed by the second respondent for the assessment year 2006-2007 in respect of the petitioner and quash the same insofar as it relates to addition of amount of Rs.61,70,029/- under the capital gain. (Prayer amended as per order dated 25.08.2010 in M.P.No.1 of 2010)

For Petitioner	:	Mr.R.Parthasarathy in both the WPs
For Respondents in WP.No.18486/2009	:	Mr.A.N.R.Pratap G.A(Taxes)
For R1 to R3 in WP.No.11227 of 2009	:	Mr.J.Ramesh, AGP

COMMON ORDER

According to the petitioner, he owned agricultural lands admeasuring one acre in S.Nos.380 (part) and 381/1 in Goundampalayam Village, Coimbatore, which was acquired by him, vide sale deed dated 17.05.2002 bearing Doc.No.1231/2002 registered on the file of the Sub Registrar, Vadavalli. He sold the said property to one Sri Ranganathar Industries Pvt. Ltd., who is the fourth respondent in WP.No.11227/2009, for a total consideration of Rs.33,00,000/-, vide sale deed dated 06.07.2005 bearing Doc.No.3068 of 2005. While so, the petitioner was shocked to receive an assessment order dated 23.12.2008, demanding income tax on the capital gains, on the basis of the valuation of the property sold by the petitioner to the fourth respondent alleged to have been made at Rs.67,90,000/- as against the actual sale consideration of Rs.33,00,000/-. On enquiry, he came to know that the second respondent vide order dated 07.07.2005, made an endorsement on the rear side of the sale deed dated 06.07.2005 with respect to the value of the property as Rs.67,90,000/-. According to him, the guideline value of the property in question at the relevant time, was Rs.7,40,000/- per acre, whereas according to the second respondent in WP.No.11227/2009, the value of the property in question was Rs.67,90,000/-, which had been arrived at by referring to developed residential colony (M.G.R colony) in a different locality. Contending that the second respondent/Sub Registrar, Vadavalli, Coimbatore, without any notice or affording an opportunity of hearing to the petitioner, has determined the value of the property in question at Rs.67,90,000/- as against the actual sale consideration of Rs.33,00,000/-, the petitioner has filed a writ petition in WP.No.11227 of 2009 seeking to quash the order dated 07.07.2005, as unconstitutional and ultra vires the provisions of the Indian Stamp Act, 1888 and the rules framed thereunder. Subsequently, the petitioner has preferred a writ petition in WP.No.18486 of 2009 to set aside the assessment order dated 23.12.2008 passed by the Assessing Officer relating to the year 2006-2007 by adding the sum of Rs.61,70,029/- under the capital gain.

2.However, today, when the matter was taken up for hearing, the learned counsel for the petitioner restricted the reliefs sought herein to the extent of seeking a direction to the Appellate Authority, to dispose of the appeal said to have been filed by the petitioner, as against the assessment order dated 23.12.2008 passed by the Assessing Officer, within a time frame to be stipulated by this Court.

3.The learned Government Advocate (Taxes) appearing for the respondents in WP.No.18486 of 2009 has no serious objection for granting such relief to the petitioner.

4.Considering the facts and circumstances of the case and having regard to the submissions so made by the parties, this Court directs the Appellate Authority to dispose of the appeal filed by the petitioner, if not already disposed of, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

5.Accordingly, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Writ)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
   Revenue Department, Fort St.George,
   Chennai-9.

2. The Sub Registrar,
   Vadavalli, Coimbatore,

3. The District Collector,
   Coimbatore District,
   Coimbatore.

4. The Commissioner of Income Tax (Appeals) – II,
   Race Course Road, Coimbatore – 641 018.

5. The Additional Commissioner of Income Tax,
   (Range – II) Kings Complex,
   347-A, Dr.Nanjappa Road, Coimbatore.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.23657
+1cc to the Special Government Pleader (T), S.R.No.24007

W.P.Nos.11227 and 18486 of 2009

VBA(CO)
CS/08/07/2020