IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) No.42 of 2016

The Commissioner of Income Tax 7
Chennai. ...Appellant/Appellant

Vs.

Geetha Venugopal ...Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'B' Bench, Chennai dated 19.06.2015 in ITA.636/Mds/2013 for Assessment year 2009 - 10 against the order of the commissioner of Income Tax (Appeals) - IX, Chennai - 84 dated 28/12/2012 in ITA No.285/11 - 12 for the assessment year 2009-10 against the order of the Income Tax Officer, Business ward(1), Tambaram, Chennai dated 30/12/2011 in PAN/GIR NO. AQEPG651H for the assessment year 2009 - 10.

For Appellant : Mr.Karthik Renganathan, Sr.Standing Counsel Assisted by Mr.V.Rajesh, Jr.Standing Counsel

For Respondent : No appearance

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, by raising the following substantial questions of law:

"1.Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that the subject land is an agricultural land and eligible for exemption under Section 2(14) of the Income Tax Act without verifying as to whether the compensation for the land acquired was paid on square feet basis treating it as a non-agricultural land or on per cent basis treating it as an agricultural land?

2. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was correct in relying upon the certificate issued by the Village Administrative Officer, which cannot supersede the classification made by Tamil Nadu Government in its official website?

3. Whether on the facts and circumstances of the case, the Appellate Tribunal was correct in not following the Supreme Court judgment in the case of Smt.Sarifabibi (204 ITR 631) where it was held that the land being mentioned as agricultural land in the revenue records, is not conclusive evidence to prove its character? And

4. Whether on the facts and circumstances of the case, the Appellate Tribunal was correct in relying upon the population of Kollapakkam Village to hold that the land is an agricultural land and failed to follow the Hon'ble Supreme Court Judgment in the case of G.M.Omer Khan (196 ITR 269) wherein it was held that the population of the entire municipality has to be considered and not that of a particular area / village for the purpose of Section 2(14)(iii) of the Income Tax Act?”

2. When the matter was taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the

substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

1. Income Tax Appellate Tribunal
   'B' Bench,Chennai.

2. The Commissioner of Income Tax,
   (Appeals) - IX,
   Chennai - 34.

3. The Income Tax Officer,
   Bussiness ward (1),
   Tambaram.

T.C.(A) No.42 of 2016

VBA(CO)
KKV/08/07/2020