IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 INCOME TAX APPEAL NO.76 OF 2018

RAMCHANDRA PRABHAKAR SURYAWANSHI
VERSUS
THE INCOME TAX OFFICER LATUR AND ANR
...
Advocate for Appellants : Mr. Halkude Sharad S.
Advocate for Respondent Nos.1 & 2 : Ms. Bharaswadkar Patil Kalpalata
...

CORAM : R.D. DHANUKA &
S.G. MEHARE, J.J.

DATED : 12th APRIL, 2022

PER COURT.:-

1. By this appeal filed under Section 260A of the Income Tax Act, 1961, the appellant has impugned the order dated 02.06.2017 dismissing the appeal by the Income Tax Appellate Tribunal and confirming the order passed by the Commissioner, Income Tax (Appeals-2) and the assessment order.

2. It is the case of the appellant that he had purchased the property vide purchase deed dated 14.07.2010 from Shri Rajansingh Kuvarsingh Baisthkur for the sum of Rs.2 lakhs only. The said valuation was reflected according to the appellant in the accounts of the appellant.

3. The assessing officer, however, made an addition of Rs.28,88,125/- as deemed income being unexplained investment in

land shown less in balance sheet. Being aggrieved by the said addition, the appellant preferred an appeal before the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) passed an order on 19.02.2016 dismissing the appeal filed by the appellant. Being aggrieved by the said order dated 19.02.2016 passed by the Commissioner of Income Tax (Appeals), the appellant preferred an appeal before the Income Tax Appellate Tribunal. By a detailed order rendered by the Income Tax Appellate Tribunal, the said appeal preferred by the appellant was dismissed.

4. Learned counsel for the appellant submits that the original of the agreement of sale between the vendor of the said land in favour of the appellant and the erstwhile tenor was produced before the assessing officer and thus, based on a photocopy of the said agreement for sale, the assessing officer could not have made an addition of Rs.28,88,125/- as deemed income being unexplained investment in land shown less in balance sheet.

5. It is submitted by the learned counsel that similar error is also committed by the Commissioner of Income Tax (Appeals) and also by the Income Tax Appellate Tribunal while confirming the additions made by the assessing officer.

6. Learned counsel for the revenue on the other hand opposes this appeal on the ground that there are no substantial questions of law involved in this appeal filed by the assessee. She

submits that full opportunity was granted to the appellant to lead evidence and also to cross-examine the vendor of the said land and also the erstwhile purchaser. The appellant had cross-examined both the parties. She submits that these findings of fact cannot be interfered with by this Court in this petition filed under Section 260A of the Income Tax Act, 1961.

7. Perusal of the record indicates that it is undisputed position that before the assessing officer, Shri Rajansingh Kuvarsingh Baisthkur from whom the appellant had purchased the said land was examined. The appellant had cross-examined him. The assessing officer had also asked various questions to the earlier purchaser Shri Ayub Haji Abdul Rashid Qureshi. In the evidence of the said Shri Ayub Haji Abdul Rashid Qureshi who was the earlier purchaser of the same land from Shri Rajansingh Kuvarsingh Baisthkur, it had come in the evidence that the earlier purchaser Shri Ayub Haji Abdul Rashid Qureshi was ready to purchase the said land for Rs.30,88,125/- being 81R. The assessing officer has after considering the oral evidence of these parties, recorded a finding that if the same land was agreed to be purchased by Shri Ayub Haji Abdul Rashid Qureshi for the sum of Rs.30,88,125/-, how the said land within a period of two months could have been agreed to be sold in favour of the appellant in the sum of Rs.2 lakhs only. After considering this aspect in great detail and the admission of Shri Rajansingh Kuvarsingh Baisthkur, the

assessing officer made addition of Rs.28,88,125/- as deemed income being unexplained investment in land shown less in the balance sheet of the appellant. The Commissioner of Income Tax (Appeals) also after considering the oral and documentary evidence, recorded the findings that there was unexplained investment in land shown less in the balance sheet of the appellant and dismissed the appeal filed by the appellant.

8. We have also perused the impugned order passed by the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal has also recorded various findings of fact while dismissing the appeal preferred by the appellant.

9. Learned counsel for the appellant vehemently urged that on the basis of photocopy of the agreement for sale between Shri Ayub Haji Abdul Rashid Qureshi and Shri Rajansingh Kuvarsingh Baisthkur, the assessing officer could not have made an addition in the income of the appellant. Learned counsel for the appellant could not dispute that the appellant had cross-examined Shri Rajansingh Kuvarsingh Baisthkur. Even in the cross-examination of the said seller Shri Rajansingh Kuvarsingh Baisthkur, he admitted that he had received the sum of Rs.30.55 lakhs out of which Rs.2 lakhs was received by cheque and balance amount of Rs.23.50 lakhs was received in cash.

10. In our view, the entire order passed by the Income Tax

Appellate Tribunal is based on pure findings of fact. No substantial question of law arises in this appeal filed under Section 260A of the Income Tax Act, 1961. The appeal being devoid of merit is accordingly dismissed.

(S.G. MEHARE. J.) **(R.D. DHANUKA, J.)**

Mujaheed//