IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WEALTH TAX APPEAL NO.2263 OF 2019
WITH
WEALTH TAX APPEAL NO.2286 OF 2019
WITH
WEALTH TAX APPEAL NO.2288 OF 2019
WITH
WEALTH TAX APPEAL NO.2321 OF 2019

Pr. Commissioner of Income Tax-1 ….Appellant

V/s.

Forbes & Company Ltd. …Respondent

Mr. Suresh Kumar for Appellant
Mr. Paras Savla a/w Mr. Pratik Poddar i/b Mr. Atul K. Jasani for Respondent

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CORAM : K.R. SHRIRAM &
N.J. JAMADAR, JJ
DATED : 2nd FEBRUARY 2022

P.C. :

<u>WEALTH TAX APPEAL NO.2263 OF 2019</u>

1 Proposed substantial question of law is as under:

> "Whether on the facts and in the circumstances of the case in law, the Hon'ble ITAT was right in deleting the addition made to the net wealth by the AO on account of undisclosed asset, by holding that the assessee is not in possession of asset in view of the MOU with the developer, without appreciating the fact that the assessee neither entered into any sale agreement nor conveyed the property in favour of the developer but entered into an MOU for development of the said property ?"

2 ITAT in the impugned order has come to factual finding that the land was transferred in the Financial Year 1994-1995 itself relevant to A.Y.-1995-1996 and as also recorded the uncontroverted fact that respondent had even paid capital gains on the transfer of the land. Tribunal has also recorded the fact that transfer of asset in Financial Year 1994-1995 relevant to A.Y.-1995-1996 has been accepted by the A.O. who passed order under Section 143(3) of the Income Tax Act 1961 and, therefore, has rightly concluded that the Wealth Tax Officer cannot take a view different from the Assessing Officer under the Income Tax Act.

3 In our view, the ITAT has not committed any perversity or applied incorrect principles to the given facts and when the facts and circumstances are properly analysed and correct test is applied to decide the issue at hand, then, we do not think that questions as pressed raises any substantial questions of law.

4 Appeal is devoid of merit and is dismissed with no order as to costs.

WEALTH TAX APPEAL NO.2286 OF 2019
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5 In view of the dismissal of Wealth Tax Appeal No.2263 of 2019, the above appeals do not survive and accordingly stand dismissed.

(N. J. JAMADAR, J.) **(K.R. SHRIRAM, J.)**

Meera Jadhav