IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WEALTH TAX APPEAL NO.334 OF 2020
WITH
WEALTH TAX APPEAL NO.01 OF 2021
WITH
WEALTH TAX APPEAL NO.02 OF 2021

The Pr. Commissioner of Wealth Tax-Central,
Pune ...Appellant
vs.
Valuable Properties Private Limited ...Respondent

Mr. Sham Walve, for the Appellant.

CORAM : K.R. SHRIRAM &
N. J. JAMADAR, JJ.

DATE : FEBRUARY 01, 2022

P.C.:

. The following substantial questions of law are proposed by the Appellant.

> A] Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT erred in not appreciation the fact that the approval to buy and hold the agriculture land by the company i.e. M/s. Valuable Properties Pvt. Ltd. which is not engaged in the agriculture work granted by State Government only for rapid industrial development of the State ?
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> B] Whether on the facts and circumstance of the case and in law, the Hon'ble ITAT has failed to appreciated the fact that the assessee company was enabled to buy and hold the agriculture land by making an amendment u/s. 63-1A(1) of Bombay Tenancy and Agricultural Lands Act, 1948 and the purpose of the amendment and the section was to allow the investor company to hold for the sole purpose of development of infrastructure ?

C] Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT erred in treating the land which was approved by the State Government only for industrial purpose as stock in trade ?

D] Whether on the facts and circumstance of the case and in law, the Hon'ble ITAT erred in not appreciation the provisions of section 2(ea) of Wealth Tax Act, 1957 which is totally applicable as per the facts of this case ?

E] Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT erred in deleting the addition without adjudication of facts brought out by the AO in para 6.3 of the assessment order that the said land was given to the assessee by the State Government of Maharashtra as an Industrial land to set up the "Industry" namely "Special Township" and "Tourism Project". Hence, it cannot be treated as stock in trade ?

2. The primary question based on submissions of Mr. Walve which would required adjudication is whether the piece of land in Panvel held by Respondent was its stock in trade or taxable within the provisions of Wealth Tax Act.

3. This appeal pertains to A.Y. 2012-13. There are two other appeals bearing Appeal Nos. 01 of 2021 and 02 of 2021 which are filed for A.Y. 2010-11 and 2011-12, respectively. These two Appeals are not listed today. The rival submissions and order impugned in these two appeals are the same which is impugned in these appeals and any view expressed by us in the present appeal, will have direct bearing on these two appeals as well.

4. Respondent was developing a project in the name of "Mega City" spread over 600 acres of land at Panvel. The project was duly approved by State Government under the provisions of Special Township Development Scheme. The land was purchased in the financial year 2008-09 and 2009-10. In the financial statement of Respondent, the land was reflected as inventories, i.e., stock in trade. Therefore, Respondent did not take this land into account while computing net wealth under the Wealth Tax Act. According to Respondent, it was not an asset which is covered by Wealth Tax being stock in trade and excluded for 10 years from the date of acquisition. Notwithstanding the fact that Respondent had started preliminary work to develop a special township after proper approval of the Government and as per the sanction letter of State Government dated 9th August, 2007 Respondent was required to complete the work of development of special township within a period of 15 years, the Assessing Officer did not accept the contention of Respondent and held that any land which was acquired for industrial purpose, does not form part of stock in trade as the same remained unused for two years, and it will form part of wealth of Respondent. The Assessing Officer further held that Respondent was not a dealer in land who is engaged in business of buying and selling of land and the land acquired by Respondent can

not be considered as an inventory.

5. This finding of the Assessing Officer was challenged by Respondent before Commissioner of Income Tax (Appeals) (hereinafter referred to 'CIT (A)'). CIT(A) after considering the submissions of Respondent observed that if Respondent had to develop the special township, it would definitely take time for completion. CIT(A) appreciated the fact that preliminary work after Government approval had commenced and the sanction letter of State Government itself provided 15 years to complete the project and develop a special township and the fact that only after 15 years, if the development of special township was not completed, the land will revert to the original owner. This is what impressed the CIT(A), in addition to the fact the Assessing Officer has not given a finding anywhere that Respondent had abandoned the work of development in reverting the findings and the order of Assessing Officer. CIT(A) also has observed that the Assessing Officer has actually allowed all expenses incurred by Respondent as business expenses, which would mean Respondent was pursuing development work and hence land in question would not fall within the definition of 'Urban Land' being stock in trade and business asset of Respondent.

6. Appellant aggrieved by this finding of CIT(A) filed Appeal before Income Tax Appellate Tribunal (ITAT). The ITAT by its order pronounced on 21st June, 2019 and impugned in this appeal concurred with the finding of CIT(A). ITAT also held, and rightly so, that the explanation (1)(b) attached with Section 2(ea) of the Act clearly specified that any land held by assessee as stock in trade for a period of 10 years from the date of acquisition will not be included in the definition of 'Urban Land'. ITAT also held that as per Section 2(m) of Wealth Tax Act, while determining the wealth tax liability of Respondent, the aggregate value of debt owed by Respondent in respect of assets owned by Respondent have to be reduced from the aggregate value of asset belonging to Respondent.

7. Having considered impugned order of ITAT and also the order of Assessing Officer as well as CIT(A), in our view, the Tribunal has not committed any perversity or applied incorrect principles to the given facts and when the facts and circumstances are properly analyzed and correct test is applied to decide the issue at hand, then, we do not think the questions as proposed raises any substantial question of law.

8. The appeal is devoid of merits and it is dismissed with no

order as to costs.

9. In view of above, Wealth Tax Appeal Nos. 1 of 2021 and 2 of 2021 also stand dismissed.

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