IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

T.C.A.NOS.1208 TO 1210 OF 2010

The Commissioner of Wealth-tax
Pondicherry
... Appellant in all T.C.As.

Versus

M.Banumathy
... Respondent in all T.C.As.

Appeals preferred under Section 27-A of the Wealth Tax Act, 1957 against the order of the Income Tax Appellate Tribunal “B” Bench, Chennai dated 30.04.2010 passed in M.P.No.359/Mds/2009 in W.T.A.No.11/Mds/2009, M.P.No.67/Mds/2010 in W.T.A.No.12/Mds/2009 and M.P.No.68/Mds/2010 in W.T.A.No.13/Mds/2009 of order dated 03.08.2009 of the Assistant Commissioner of Wealth-tax, Circle-I, Cuddalore in W.T.A.Nos.11, 12 & 13/Mds/2009 for the Assessment years 2001-2002, 2002-2003 and 2003-2004 against the Commissioner of Income Tax (Appeals)-XII, Chennai in ITA.No.46 to 48/2007-2008 dated 26.11.2008 and against the assessment order of the Deputy Commissioner of Wealth-tax, Circle-II, Cuddalore in PAN/GIR No.11714-B/AAJPM4745R dated 31.03.2005 and 18.12.2006 for the assessment years 2001-2002, 2002-2003 and 2003-2004.

For Appellant in all T.C.As : Mr.J.Narayanasamy

For Respondent in all T.C.As : Mr.V.S.Jayakumar

COMMON JUDGMENT
(Judgment of the court was delivered by R.MAHADEVAN, J.)

Originally, in respect of the returns filed by the respondent / assessee, for the years 2001-02, 2002-03 and 2003-04, the assessment officer, after scrutinizing the same, adopted the fair market value of the land as against the rate adopted by the assessee and completed the assessment under section 16(3) r/w section 17 of the Wealth-tax Act, 1957. Challenging the same, the assessee filed an appeal before the Commissioner of Income-tax (Appeals), who after considering the over all facts and special features of the property, which is nearer to the Railway line and also largeness of the property, partly allowed the appeal. Aggrieved over the same, the Revenue went on appeal before the Income Tax Appellate Tribunal. By order dated 03.08.2009 in W.T.A.Nos.11,12 and 13/Mds/2009, the Tribunal dismissed all the appeals on the ground that the appeals were not maintainable, as the tax effect involved, was below the limit prescribed by the CBDT Instruction No.2 of 2005. The said order was questioned by the Revenue by filing miscellaneous petitions, which were dismissed vide order dated 30.04.2010. Therefore, the Revenue has come up with these appeals before this court.

2.By order dated 24.01.2011, this court admitted the aforesaid tax case appeals on the following substantial question of law:

> “Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in dismissing the Miscellaneous Petition against the main appeal filed by the revenue. Even though the case was covered by para 8(c) of Instruction No.5 dated 15.05.2008?"

3.The appellant challenged the order impugned herein by stating that though the tax effect was less than the monetary limit, the appeals were filed due to audit objection and the case was covered by para 8(c) of Instructions No.5/2008 dated 15.05.2008. However, the Tribunal, without going into the merits of the case, dismissed the appeals filed by the Revenue, on the ground of low tax effect. The petitions filed by the Revenue to recall the said order was also dismissed. Hence, the present tax case appeals.

4.Today, when the matters are taken up for consideration, the learned counsel for the appellant restricted his argument only with regard to the issue of low Tax effect and submitted that the matter may be remanded to the Tribunal for reconsideration to that extent, for which, the learned counsel appearing for the respondent / assessee has raised no serious objection.

5.In view of the relief now sought by the learned counsel for the appellant, which has not been seriously opposed on the side of the respondent, we set aside the order impugned herein and consequently, remand the matters to the Tribunal for fresh consideration, on merits, only in respect of the issue of low tax effect. Such an exercise shall be completed by the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. Accordingly, all the tax case appeals are disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Wealth-tax
   Pondicherry

2. The Income Tax Appellate Tribunal,
   Chennai, "B" Bench.

3. The Deputy Commissioner of Income Tax,
   Larger Taxpayer Unit, Chennai.

4. The Assistant Commissioner of Wealth-tax,
   Circle-I, Cuddalore.

5. The Commissioner of Income Tax (Appeals)-XII,
   Chennai.

6. The Deputy Commissioner of Wealth-tax,
   Circle-II, Cuddalore.

T.C.A.Nos.1208 to 1210 of 2010

SRA(CO)
PM/22/02/2022