$~R-10

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010747192005**

\+ WTA 8/2005

COMMISSIONER OF INCOME TAX DEL

.....Petitioner

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar and Mr. Surya Jindal, JSCs. with Ms. Nancy Jain, Advocate

versus

VEENA RANI

.....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE DR. JUSTICE ADITI CHOUDHARY

O R D E R

% 31.10.2026

1. The following substantial question of law was framed in the present appeal:-

> *"Whether the ITAT was correct in law in holding that the land on which incomplete building was constructed by the assessee is not an asset within the meaning of section 2(ea) of the Wealth Tax Act, 1957?"*

2. Learned counsel for the appellant submitted that WTA No. 1/2004 of the very same assessee (*Veena Rani*), had been allowed by a Division Bench of this Court *vide* order dated 03.08.2016 and in light of the judgment rendered by Hon'ble the Supreme Court on 24.07.2016 in the case of ***Giridhar G. Yadalam v. Commissioner of Wealth Tax*** in Civil Appeal No.

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728 of 2011 the very same question has been answered in negative i.e. in favour of the revenue and against the assessee. He thus contended that present appeal also deserves to be allowed.

3. Heard and perused the record. We find that the issue involved in the present appeal is exactly identical to the one which was involved in WTA No. 1/2004.

4. The order dated 03.08.2016 in WTA No. 1/2004 reads thus:-

> *1. This appeal by the Revenue is directed against the order dated 16th June, 2003 of the Income Tax Appellate Tribunal ('ITAT') WTA No. 43/Del/1999 for the Assessment Year 1993-94.*
>
> *2. While admitting the appeal on 15th December 2005, the following substantial question of law was framed for determination:*
>
> > *"Whether the ITAT was correct in law in holding that the land on which incomplete building was constructed by the assessee is not an asset within the meaning of section 2(ea) of the Wealth Tax Act 1957?"*
>
> *3. It is pointed out by learned counsel for the Revenue that on the above substantial question of law there was a conflict of opinion between the High Courts of Kerala and Madras on the one hand which held in favour of the Assessee, and the High Court of Karnataka on the other holding in favour of the Revenue. The conflict has since been now resolved by the judgment dated 24th July, 2016 of the Supreme Court in Civil Appeal No. 728 of 2011 (**Giridhar G. Yadalam v. Commissioner of Wealth Tax**). A copy of the judgment has been perused by the Court. It is seen that the Supreme Court has overruled the judgments of the High Courts of Kerala and Madras and has confirmed the judgment of the High Court of Karnataka.*
>
> *4. Accordingly, the question framed is answered in the negative, i.e., in favour of the Revenue and against the Assessee. The impugned order of the ITAT is set aside and the appeal is allowed".*

5. Following the above order, the present appeal is also allowed. The question framed in the present appeal is also answered in the negative i.e. in

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favour of the revenue and against the assessee.

6. The impugned order of the Income Tax Appellate Tribunal Bench 'F', New Delhi dated 22.06.2004 is, therefore, quashed and set aside and the order of the assessing officer dated 26.03.1996 is thus restored.

7. Consequence to follow.

DINESH MEHTA, J.

ADITI CHOUDHARY, J.

OCTOBER 31, 2026
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