(2003) 04 BOM CK 0026

In the Bombay High Court

Case No : WT Appeal No''s. 239, 242 and 244 of 2001

Commissioner of Income Tax APPELLANT

Vs

Traders (P) Ltd. RESPONDENT

Date of Decision : 16-04-2003

Acts Referred:

Citation : (2003) 184 CTR 224

Hon'ble Judges : S.H. Kapadia, J;J.P. Devadhar, J

Bench : Division Bench

Advocate : R.V. Desai and P.S. Jetly, instructed by L.S. Shetty, for the Appellant; P.J. Pardiwala, instructed by P. Kamani, for the Respondent

Final Decision : Dismissed

Judgement

S.H. Kapadia, J.—The above three appeals deal with common question of facts and, therefore, they are disposed of by this common judgment. WT Appeal No. 239 of 2001 is in respect of asst. yr. 1989-90, WT Appeal No. 242 of 2001 is in respect of asst, yr. 1992-93 and the WT Appeal No. 244 of 2001 is in respect of asst. yr. 1990-91.

2. Being aggrieved by the decision of the Tribunal, the Department has filed this appeal u/s 260A of the IT Act.

Facts

3. The assessee-company filed its return of wealth on 13th April, 1992, in response to notice u/s 17(1) of the WT Act declaring the net wealth of Rs. Nil. The AO calculated the net wealth of the assessee-company at Rs. 48,07,874. The AO came to the conclusion that the property was constructed on a leasehold land. He, therefore, worked out the annual rental value in the manner indicated on p. 10 of the paper book. Being aggrieved, the assessee carried the matter in appeal to the CIT(A) who took the view that, in this matter, the Government valuer has not worked out the actual rent received for the property occupied by the tenant of the assessee. In the circumstances, the CIT(A) remanded the

matter back to the AO. While remanding the matter, the CIT(A) further observed that the rate of capitalization should be worked out on a scientific basis and, consequently, the AO was directed to apply Schedule III to the WT Act and revalue the property on that basis. Being aggrieved by the order of remand, the Department carried the matter in appeal to the Tribunal on the ground that the CIT(A) erred in directing the Valuation Officer to take the rent of Rs. 4,000 and not total compensation received by the assessee for the premises. It may be mentioned that there is no such direction in the order of the CIT(A). The CIT(A) has merely directed the AO to revalue the property after taking into account the principles mentioned in Schedule III to the WT Act. For the aforestated reasons, the Tribunal was right in not interfering with the order of remand passed by the CIT(A).

Arguments

4. It was argued on behalf of the Department that, in this matter, the Department has come in appeal before the High Court as the CIT(A) has laid down a principle of law while remanding the matter to the AO. No such principle has been laid down by the CIT(A). The CIT(A) has merely directed valuation of the property as per Schedule III to the WT Act. In the circumstances, no substantial question of law arises in these appeals.

Conclusion

5. Consequently, all the three appeals are dismissed with no order as to costs.