(2003) 03 MAD CK 0174

In the Madras High Court

Case No : Tax Case No''s. 365 and 366 of 1999

Commissioner of Wealth Tax — APPELLANT

Vs

Shardlow India Ltd. — RESPONDENT

Date of Decision : 20-03-2003

Acts Referred:

Citation : (2004) 187 CTR 648 : (2006) 285 ITR 426

Hon'ble Judges : R. Jayasimha Babu, J;K. Raviraja Pandian, J

Bench : Division Bench

Advocate : Pushya Sitharaman, for the Appellant; P.P.S. Janardhanaraja, for the Respondent

Judgement

R. Jayasimha Babu, J.—At the instance of the Revenue, the following questions have been referred to us for our consideration :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the entire extent of 3,434 sq. mts. of land at Mylapore should be valued at the rate of compensation payable under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, and not at market rate?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that even in respect of that portion of land viz., 2,000 sq. mts., which is held by the assessee as a freehold land and not subject to any proceedings initiated by the Urban Land Authorities, the value of land should be determined at the rate of compensation payable by the Government and not at the market rate?

The assessment years are 1989-90 and 1990-91.

2. The order of the Tribunal does not set out any details. The Tribunal has merely followed the order that it had made for the earlier assessment years from 1984-85 to 1988-89. A copy of that order has been placed before us. That order discloses that the assessee owned during those years 61,524 sq. mts. of land on

which building existed over an area of 11,962 sq. mts. That position continues for these assessment years also. The assessee was entitled to retain 2,000 sq. mts. of vacant land and, therefore, 47,562 sq. mts. was in excess. The assessee obtained an order from the Government permitting it to retain the land subject to the condition that the same shall not be alienated in any manner and be solely used for its business purposes.

3. This extent of land is not in one location, but in different locations and the property measuring 3,434 sq. mts. of land at Mylapore, it was held by the Tribunal in its order for the asst. yrs. 1984-85 to 1988-89, is part of 47,562 sq. mts. for which exemption had been granted by the State Government subject to certain conditions. The valuation of that land, as laid down by this Court in the case of Commissioner of Wealth-tax, Tamil Nadu-II, Madras Vs. K.S. Ranganatha Mudaliar and Others, was required to be made based on the compensation receivable under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. Thus, for the asst. yrs. 1984-85 to 1988-89 this extent of 3,434 sq. mts. of land was valued at the rate of compensation payable under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. That order of the Tribunal was made on 28th Aug., 1992.

4. For the asst. yrs. 1989-90 and 1990-91 the AO had taken the market value and the CIT(A), on appeal, had chosen to follow the orders for the asst. yrs. 1984-85 to 1988-89 wherein also he had adopted the market value. At the time the CIT(A) made the order, on appeal, the order of the Tribunal made for the asst. yrs. 1984-85 to 1988-89 which had set aside the orders of the CIT(A) for those years was not available as the decision of the Tribunal was rendered only several months after the disposal of the appeal by the CIT(A), the CIT(A) having decided the appeal on 31st Jan., 1992.

5. In the appeal preferred against that order of the CIT(A), the Tribunal for these assessment years followed its orders for the earlier asst. yrs. 1984-85 to 1988-89.

6. Though the questions referred to us have been referred pursuant to an order made by this Court, the basis for framing the second question is difficult to gather, as already observed, details with regard to these properties has not been set out in the order of the Tribunal and the order of the Tribunal for the earlier assessment years clearly contains a finding that the entire extent of 3,434 sq. mts. of land in Mylapore, at Radhakrishnan Road is part of the land for which exemption has been granted. The second question is, therefore, returned unanswered.

7. Regarding the first question, the entire extent of land at Mylapore being part of the area which has been exempted under the provisions of Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, as rightly held by the Tribunal, has to be valued based on the rate of compensation payable under the Act and not by adopting the market rate. That indeed is the law laid down by this Court in the

case of CWT v. K.S. Ranganatha Mudaliar (supra).

8. The first question is, therefore, answered in favour of the assessee and against the Revenue.

