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**(2004) 08 P&H CK 0023**

**In the Punjab And Haryana At Chandigarh**

**Case No : WT Case No. 76 of 1989 2 August 2004**

CWT

APPELLANT

Vs

Parmod Kumar Jain

RESPONDENT

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**Date of Decision : 02-08-2004**

**Acts Referred:**

**Citation : (2004) 141 TAXMAN 47**

**Hon'ble Judges : N.K. Sud, J; Adarsh Kumar Goel, J**

**Bench : Full Bench**

**Advocate : A.S. Tewatia, for the Revenue, for the Appellant;**

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## **Judgement**

N.K. Sud, J.

This order shall dispose of a bunch of 33 petitions, viz., WTC Nos. 37, 38, 68 to 76, 80 to 85, 88 to 90, 92, 93, 100 to 107, 109, 110 of 1989 and 2 of 1990. Since the basic case on the basis of which all these matters are being decided, is WTC No. 76 of 1989. Facts are taken from the said case.

2. The revenue has filed this petition u/s 27(3) of the Wealth Tax Act, 1957 (hereinafter referred to as the Act), seeking a direction to the Income Tax Appellate Tribunal, Delhi Bench, Delhi (hereinafter referred to as the Tribunal) to refer the following questions of law, said to be arising out of its order dated 29-1-1988 for assessment year 1974-75, for the opinion of this court :

"1. Whether, on the facts and in the circumstances of the case, the ITAT is justified in law in ignoring the order of the Addl. Distt. Judge and Honble High Court awarding Addl. Compensation to the assessee while adopting the fair market value of the agrl. lands acquired by the government ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the market value of assessee's 1/4th share in agrl. land measuring 17K 14M and 30K 5M should be adopted at the rate of Rs. 4.13 per sq. yd. which was the compensation awarded by the Collector as against Rs.

10 and Rs. 23 per sq. yd. awarded by Addl. Distt. Judge and High Court respectively ?

3. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the value of both the lands should be the same ?"

3. Before approaching this court, the revenue had filed an application u/s 27(1) of the Act requiring the Tribunal to draw up a statement of the case and refer these questions of this court. This application was rejected vide order dated 31-8-1988 in the following terms :

"What should be the market value of an asset is basically a question of fact. The revenues charge in one of the proposed questions that this Tribunal has ignored the awards passed by the Addl. Distt. Judge and the Honble High Court is incorrect because it is after taking into such awards that the valuation for the assessment years 1979-80 to 1985-86 has been determined. Such a question therefore, does not arise out of the order of the Tribunal. Similarly the question whether the two lands were similar is a question of fact and the Tribunal was justified in making this assumption because the Collector had awarded the same amount of compensation for both the pieces of land. The District Judge who awarded a much higher compensation about a decade later was not apprised of the earlier award by another Judge @ Rs. 10 per sq. yard. In fact the Wealth Tax Officer has himself treated these lands similar by adopting the same rate for them both."

4. The Tribunal has also relied on the following observations of the Delhi High Court in Commissioner of Wealth Tax Vs. S.K. Dass, :

"It is conceded that there is no other evidence available for the assessing authority to estimate the value having regard to the peculiar nature of the property, its marketability and the surrounding circumstances including the hazard of litigation looking large at the relevant time. In this situation, no useful purpose will be served in calling upon the Tribunal to submit a statement of the case and refer the question asked for. We would thus accordingly dismiss these applications." (p. 295)

5. Mr. A.S. Tewatia, learned counsel for the revenue contended that question of valuation is a question of law. He placed reliance on a judgment of the Supreme Court in CGT v. Executors and Trustees of the Estate of the Late Shri Ambalal Sarabhai, (1988) 170 ITR 144 (SC) to contend that the question of valuation is always a question of law.

6. We are not inclined to accept this contention. The question before their Lordships of the Apex Court in Executors & Trustees of the Estate of Late Shri Ambalal Sarabhais case (supra) was as to which method of valuation has to be adopted for determining the value of the shares. It was observed that correct principle of valuation applicable to a given case is a question of law. In the present case, there is no such dispute. In fact, the Tribunal has specifically

noticed that there was no dispute about the method of valuation. In Commissioner of Wealth-tax Vs. Sham Lal, a Division Bench of this court has held that once a controversy about the valuation of building etc. has been decided upon existing and verified facts, no question of law arises for consideration by the High Court.

7. In this view of the matter, we are satisfied that the question of estimate of valuation of immovable property in the present case is a pure question of fact and the findings of the Tribunal have not been shown to be perverse in any manner.

8. In view of the above, we do not find any merit in these petitions and dismiss the same.s