(1991) 04 AHC CK 0027

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. Nil of 1991

Swastic Sahkari Awas Samiti Ltd. and Another APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 23-04-1991

Acts Referred:

Constitution of India, 1950 — Article 226
Income Tax Act, 1961 — Section 230A

Citation : (1991) 191 ITR 443

Hon'ble Judges : V.K. Khanna, J;G.P. Mathur, J

Bench : Division Bench

Advocate : Bharatji Agarwal, for the Commissioner, for the Appellant;

Judgement

V.K. Khanna, J.—The petitioners are two co-operative societies registered under the U. P. Co-operative Societies Act, 1965 (hereinafter referred to as "the Act"), having aims and objects of acquiring land and distributing the same to its members for the purpose of construction of houses.

2. The controversy raised in the present writ petition centres round the question which has arisen in view of the letter sent by the Commissioner of Income Tax (Central), Kanpur, to the Inspector-General of Registration in connection with Income Tax clearance certificate u/s 230A of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

3. According to the petitioners, the Sub-Registrar, before registering the sale-deeds, is now requiring a no-objection certificate from the Income Tax Department u/s 230A of the Act irrespective of the fact that the value of the property which is sought to be transferred is less than Rs. 2 lacs.

4. At the admission stage, we have heard Shri Bharatji Agarwal, senior standing counsel appearing for the Income Tax Department.

5. As the questions involved in the present writ petition are only legal questions, the present writ petition is being finally disposed of in accordance with the rules

of the court.

6. Shri Bharatji Agarwal, senior standing counsel appearing for the Income Tax Department, has made a clear statement, on the basis of annexures 1 and 2 written by the Income Tax Department that the no-objection certificate which is being required u/s 230A of the Act relates only to those cases where the value of the property to be transferred is more than Rs. two lacs. Of course, it has been urged that the value of the property which is to be transferred was not to be taken on the basis of what has been stated in the sale deed which is sought to be registered and has to be taken on the basis of the circle rates fixed by the Collector of that district for the purposes of determination of the valuation of the land.

7. Having heard learned counsel for the parties, we are of the opinion that the letters of the Income Tax Department contained in annexures 1 and 2 are clear in that the no-objection certificate will be required from the Income Tax Department u/s 230A of the Act only in cases where the value of the property to be transferred is more than Rs. 2 lacs. The Sub-Registrar before whom a sale deed is presented for registration will, therefore, first determine the value of the property sought to be transferred in accordance with the circle rates fixed by the Collector concerned and in case the value of the property sought to be transferred is more than Rs. 2 lacs, he will insist on production of a no-objection certificate u/s 230A of the Act In other cases, where the value of the property according to the circle rates fixed by the Collector concerned does not exceed Rs. 2 lakhs, there would be no insistence on production of the no-objection certificate u/s 230A of the Act.

8. Subject to the aforesaid directions, the present writ petition is finally disposed of.

9. A certified copy of this order shall be given to learned counsel for the parties within 10 hours on payment of usual charges.

