(1991) 04 AHC CK 0009

In the Allahabad High Court

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

Swastic Sahkari Awas Samiti Ltd. APPELLANT

Vs

State of U.P. RESPONDENT

Date of Decision : 03-04-1991

Acts Referred:
Income Tax Act, 1961 — Section 230A

Citation : (1992) 60 TAXMAN 154

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

Bench : Division Bench

Judgement

Khanna, J.—Petitioners are two co-operative societies registered under the UP Co-operative Societies Act, 1965 having aims and objects of acquiring land and distributing the same to its members for the purposes of construction of houses. The controversy raised in the present writ petition centres round the question which has arisen in view of the letter sent by the Commissioner, Kanpur to the Inspector General of Registration in connection with income tax clearance certificate u/s 230A of the income tax Act, 1961 (''the Act'').

2. According to the petitioners the Sub-Registrar before registering sale deeds is now requiring a no-objection certificate from the income tax Department or section 230A irrespective of the fact that the value of the property which is being sought to be transferred is less than Rs. 2 lakhs.

At the admission stage we have heard Shri Bharatji Agarwal, the senior standing counsel appearing for the income tax Department.

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.

3. 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 relates only to those cases where the value of the property to be transferred is more than Rs. 2 lakhs. 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 being 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.

Having heard the 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 that the no-objection certificate will be required from the income tax Department u/s 230A only in the cases where the value of the property to be transferred is more than Rs. 2 lakhs. 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 lakhs he will insist for production of a no-objection certificate u/s 230A. 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 for production of no-objection certificate u/s 230A.

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

