
(2015) 07 SC CK 0133
In the Supreme Court Of India
Case No : Civil Appeal No. 3833 of 2007

Union of India	Vs	APPELLANT
Vishnu Maruti Ghosale and Others		RESPONDENT

Date of Decision : 24-07-2015

Acts Referred:

Income Tax Act, 1961 — Section 269UD(I)

Citation : (2015) 07 SC CK 0133

Hon'ble Judges : A.K. Sikri, J; Rohinton Fali Nariman, J

Bench : Division Bench

Advocate : A.K. Panda, Senior Advocate, Niranjana Singh, Rashmi Malhotra and Anil Katiyar, for the Appellant; Shivaji M. Jadhav, Anish R. Shah and Vimal Chandra S. Dave, Advocates for the Respondent

Final Decision : Allowed

Judgement

1. Respondent 1 (transferors) and one M/s. Atul Enterprises Pune (Respondent 6) entered into an agreement on 14.11.1994 over the land owned by Petitioners, an open plot of land of 3 hectares and 93 acres in Village Varje, Haveli Taluka, Pune, land was north of National Highway on a hilltop and consideration was Rs. 80,00,000/- of which development rights (for 7 acres) were given to Respondent 6.
2. Form No. 37-I was filed on 28.11.1994 with a copy of the agreement pursuant to which the appropriate authority called for details on 14.12.1994.
3. Show cause notice was issued Under Section 269UD(I) to both Respondent 1 and 6 on 9.2.1995 stating that discounted value of apparent consideration would be Rs. 69,00,000/- (Rs. 80,00,000/- minus Rs. 11,00,000/- being the amount it was undervalued by).
4. Pre-emptive Purchase order of immovable property of Respondents was passed Under Section 269UD(I) for a net consideration of Rs. 69 lakh on 23.02.1995 as property value was undervalued by more than 15%.

5. Respondents contended that apparent consideration which had been undervalued by 15% or more than the fair market value was erroneous as first, the Sale Instance Property (SIP) in order of 23.2.1995 was not comparable and second, even on the basis of price of SIP, it was not established that the alleged undervaluation exceeded 15% or more than the fair market value and hence order was liable to be quashed.

6. We find from the judgment of the High Court while quashing the aforesaid action of the Revenue, that the High Court has come to a categorical finding that there were lots of dissimilarities between Sale Instance Property (SIP) and Property Under Consideration (PUC). These are stated in detail in the judgment and on that basis finding of fact has been arrived at.

7. After taking note of those dissimilarities the High Court relied upon the judgment of this Court in C.B. Gautam Vs. Union of India and Others, (1992) 108 CTR 304 : (1993) 199 ITR 530 : (1992) 6 JT 678 : (1993) 1 SCALE 216 : (1992) 3 SCALE 138 : (1993) 1 SCC 78 : (1992) 65 TAXMAN 440 and held that the instance to the property that was taken could not be the basis of fixing the value of PUC and consequently for taking action Under Section 269 UD(I) of the Income Tax Act. Since these are findings of fact arrived at by the High Court which are based on the material on record, we do not find any reason to interfere with that decision.

8. The appeal is accordingly dismissed.