(2004) 11 MP CK 0079

In the Madhya Pradesh High Court

Case No : WTA No. 89 of 2004 3 November 2004

WTO APPELLANT

Vs

Harshvardhan Sethi, HUF RESPONDENT

Date of Decision : 03-11-2004

Acts Referred:
Wealth Tax Act, 1957 — Section 27A

Citation : (2005) 144 TAXMAN 362

Hon'ble Judges : Ashok Kumar Tiwari, J;A.M. Sapre, J

Bench : Full Bench

Advocate : R.L. Jain and Ku. Mandlik, for the Assessee, for the Appellant;

Judgement

A.M. Sapre, J.

The decision rendered in this appeal shall govern disposal of other connected appeals being WTA Nos. 85, 86, 87 and 88 of 2004 because it involves common question and secondly, all these appeals relate to same assessee.

2. This is an appeal filed by the revenue (CWT) u/s 27A of the Wealth Tax Act against an order dated 23-12-2003, passed by ITAT in WTA Nos. 55 to 59/ Ind./98 in relation to assessment years 1987-88, 1989-90 to 1992-93.

3. The short question involved in these appeals is, whether it involves any substantial questions of law for admitting the appeal u/s 27A of the Act.

4. The dispute in this appeal relates to the rate of plot owned by an assessee. The Tribunal after hearing the parties and examining the issue with reference to rates applied in respect of other assessee in the same locality came to the following conclusion in para 4 of the order:-

"Para 4 - After considering the rival submissions and relevant materials on record, particularly the order of Tribunal in case of other assessees, we find force in the contention of learned A.R. In view of the concession made by learned A.R., we set aside the orders of CWT(A) and direct the assessing officer to value the plot at Rs. 18 per sq. ft. in assessment year 1987-88 and thereafter make increase of 71-1/2 per cent for appreciation in the later years."

It is against this finding, the revenue has come up in appeal.

5. Heard Shri R.L. Jain with Ku. Mandlik, learned counsel for the appellant.

6. Having heard learned counsel for the appellant (Revenue) and having perused record of the case, we find no substance in this appeal.

7. Indeed, the impugned order is based on concession as also on facts involving no issue of law as such. As a matter of fact there is nothing for this court to examine so far as issue of law as such is concerned. The appeal neither involves any interpretation of section nor rule. What is involved is the rate at which the valuation of plot owned by assessee has to be worked out. This inquiry, the High Court in section 27A cannot undertake being an issue of fact. It is essentially for the authorities to decide with reference to rates applicable in the area and the adjoining plots sold, as to what should be the proper rate that can be made basis for valuing the land. It is only when such finding though based on facts is found to be totally perverse or de hors the documents on record or against any provision of law, this court may consider interfering in such finding in this appeal. No such infirmity is pointed out by the appellant in the aforequoted finding recorded by the Tribunal.

8. We, therefore, do not find any merit in this appeal filed by revenue when they seek to challenge the impugned order of Tribunal which is based on facts and concession.

9. In this view of the matter, the appeal fails and is dismissed in limine.