IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN
&
THE HONOURABLE MR. JUSTICE ASHOK MENON

THURSDAY, THE 5TH DAY OF JULY 2018 / 14TH ASHADHA, 1940

W.T.A.No.3 of 2008

AGAINST THE ORDER IN W.T.A.NO.53/COCH/2002 DATED 31-12-2003
OFTHE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH, COCHIN.
[ASSESSMENT YEAR 1993-94]

APPELLANT(S)/ RESPONDENT:-

THE COMMISSIONER OF WEALTH TAX,
THIRUVANANTHAPURAM.

BY SENIOR COUNSEL, GOVERNMENT OF INDIA (TAXES) SRI.P.K.R.MENON &
STANDING COUNSEL FOR GOVERNMENT OF INDIA (TAXES) SRI.JOSE JOSEPH.

RESPONDENT(S)/APPELLANT:-

SHRI.K.C.RAJAN,
KALLUVILA, KOLLAM.

BY ADVS. SRI.E.K.NANDAKUMAR (SENIOR ADVOCATE)
SRI.ANIL D. NAIR

THIS WEALTH TAX APPEAL HAVING BEEN FINALLY HEARD ON 05-07-2018, ALONG WITH W.T.A.NO.5 OF 2008 & CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.T.A.NO.3 of 2008

APPENDIX

APPELLANT'S ANNEXURES:-

ANNEXURE-A TRUE COPY OF THE ORDER OF THE ASSESSING OFFICER DATED 31.03.2000.

ANNEXURE-B TRUE COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX (APPEALS) DATED 31.10.2002.

ANNEXURE-C CERTIFIED COPY OF THE ORDER OF THE APPELLATE TRIBUNAL DATED 31.12.2003.

RESPONDENT'S ANNEXURES:-
--- NIL.

vku/- [true copy]

K. Vinod Chandran & Ashok Menon, JJ.

W.T.A.Nos.3/2008, 5/2008, 13/2008, 14/2008, 19/2009 & 66/2009

Dated, this the 05th day of July, 2018

JUDGMENT

Vinod Chandran, J:

The question of law raised in these appeals for different assessment years, of the very same assessee. We need not delve on the facts, since the issue is one covered by the judgment of the Hon'ble Supreme Court in ***Giridhar G.Yadalam v. CWT*** **[(2016) 384 ITR 52 (SC)].**

2. The only question arising is as to whether under the Wealth Tax Act, 1957 [for brevity "WT Act"] a land in which construction is being carried on could be excluded from the definition of "urban land" and thus from the definition of "assets" as available in Section 2(ea) of the WT Act. The Hon'ble Supreme Court found that only a land in which the building is completely constructed stands excluded under the exclusionary provision under Explanation (1)(b)(ii) of Section 2(ea).

3. Respectfully following the aforesaid decision, we set aside the orders of the Tribunal and affirm the order of the Assessing Officer. The Wealth Tax Appeals would stand allowed, answering the question of law in favour of the Revenue and against the assessee. However, there is question of valuation which has to be considered by the Tribunal, which the Tribunal did not consider. Hence, to decide on the quantum, the matter is remanded back to the Tribunal. The Tribunal shall expedite the consideration, since the orders impugned are of early and late 1990s. Parties are directed to suffer their respective costs.

Sd/-
K.Vinod Chandran
Judge

Sd/-
Ashok Menon
Judge

vku/-

[true copy]