

CASE NO.:
Appeal (civil) 6053 of 1998

PETITIONER:
UNION OF INDIA & ANR.

Vs.

RESPONDENT:
M/S CHIRANJI ESTATE (P) LTD. & ANR.

DATE OF JUDGMENT: 07/08/2001

BENCH:
S. Rajendra Babu & K.G. Balakrishnan

JUDGMENT:

RAJENDRA BABU, J. :

Pursuant to an agreement entered into on August 28, 1993 the property comprised in A-3, East of Kailash, New Delhi measuring 306 sq. mts. is agreed to be sold for Rs.70 lakhs. The Appropriate Authority in exercise of the powers under Chapter XX-C of the Income Tax Act, 1961 considered that there is under-statement of value of the property on the basis of that property comprised in E-326, East of Kailash, New Delhi had been agreed to be sold for Rs.51 lakhs under an agreement dated May 23, 1993. While the salvage value of the sale instance property referred to in the notice was considered at about Rs.55,000/-, the value of the subject property was taken at about Rs.93,000/-. It was contended that the value of the building on property E-326, East of Kailash, New Delhi as on the date of agreement would be Rs.10 lakhs and that is to be taken into consideration while working out the land value and also the fact that the subject property is surrounded by jhuggi jhompri as compared to property comprised in E-326, East of Kailash, New Delhi which faces Greater Kailash-I, on the one side, and Nehru Place, on the other, and that the size of the plot of the subject property was bigger [while the subject property is measuring about 300 sq. mts., the sale instance property is measuring about 167 sq. mts.]. It is also contended that the value of the properties which are in C, D and E Blocks of East of Kailash, New Delhi is higher as compared to the value of the property in Block A. The Appropriate Authority rejected the contentions raised on behalf of the seller [respondents herein] and proceeded to order acquisition of the property. While in the High Court, it was noticed that the show cause notice had indicated the salvage value of the property at Rs.93,000/-, but in the impugned order it was taken at about Rs.9.92 lakhs, for coming to the conclusion that the fair market value was beyond the permissible 15 per cent limit. Neither the fact nor the basis for concluding that the building value is high as more than 10 times was disclosed to the parties. It appears that the two valuation reports obtained before the issue of show cause notice also did not indicate any under-valuation. Further the instance of property No.A-32 relied upon by the parties was rejected on irrelevant consideration. For one purpose valuation is sought to be relied upon and for another purpose the same is sought to be ignored. Just as the fact that comparison of incomparable properties is fallacious, non-comparison of comparable properties is equally fallacious.

Some other contentions were also advanced on behalf of the Department in this case which are identical to the one raised in C.A. Nos. 6050-51 of 1998. For the very reasons stated therein, these contentions are also rejected.

Therefore, the view taken by the High Court cannot be faulted with at all and the basis indicated in the order of the High Court as summarized above is sufficient to set aside the order made by the Appropriate Authority. Hence we decline to interfere with the order of the High Court and dismiss this appeal. No costs.

[S. RAJENDRA BABU]

...J.

[K.G. BALAKRISHNAN]

August 07, 2001.