HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Wealth Tax Appeal No. 2 / 2017

M/S Marudhar Hotels Pvt. Ltd.

----Appellant

Versus

Commissioner Of Wealth Tax, Jodhpur

----Respondent

For Appellant(s) : Mr. Ajay Vohra, Senior Advocate, assisted by Mr. Ramit Mehta

Mr. Bhanu Pratap

Mr. Saurabh Maheshwari

Mr. Yogeshwar Singh

For Respondent(s) : Mr. K.K. Bissa

HON'BLE MR. JUSTICE GOVIND MATHUR

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

04/04/2017

Heard learned counsel for the appellant.

Having considered the arguments advanced, we are of the view that this appeal involves following substantial question of Law:-

"(a) Whether on facts and in the circumstances of the case, the Tribunal erred in law in not holding that order dated 11.03.2014 passed under Section 16(3) read with Section 17 of the Act was without jurisdiction, illegal and bad in law in view that the same was passed during the pendency of the reassessment proceedings initiated earlier under that

Section?

(b) Whether on facts and in the circumstances of the case, the Tribunal erred in law in not quashing order dated 11.03.2014 passed under Section 17 of the Act considering that reasons recorded for reopening assessment under that section are factually incorrect/vague?

(c) Whether on facts and in the circumstances of the case, the Tribunal erred in law in not appreciating that land admeasuring 7,26,000 sq. yards, adjoining 'Umaid Bhawan Palace', used by the Appellant for business purposes, was not taxable as 'urban land' under Section 2 (ea) (v) of the Act?

(d) Whether on facts and in the circumstances of the case, the Tribunal erred in law in not appreciating that land admeasuring 4,84,000 sq. yards (incorrectly taken as 5,32,000 sq. yards by the assessing officer) could not be treated as 'urban land' taxable under section 2(ea)(v) of the Act, merely on the ground that the said land has been treated by the Appellant as 'capital asset' for income tax purposes?

(e) Without prejudice, whether on facts and in the circumstances of the case, the Tribunal erred in law in not directing the assessing officer to reduce, out of aforesaid unsold portion of land, land attributable towards common utilities area not owned/belonging by the Appellant?

(f) Without prejudice, whether on facts and in the circumstances of the case, the Tribunal erred in law in not directing the assessing officer to assess the value of land treated as 'urban land' at the market rate as on 31.03.2006 instead of ad-hoc rate of Rs.3,300 per sq. yards adopted by the assessing officer."

Admit.

No need to issue notice as the respondent is represented by his counsel.

We do not find any just reason to grant interim order, as prayed. The stay application is rejected.

Put up for hearing on 10.05.2017.

(VINIT KUMAR MATHUR)J. (GOVIND MATHUR)J.

Ramesh/22