

Nandlal Tejmal Kothari

Vs

Inspecting Assistant Commissioner of Income Tax & Ors.

Civil Appl. No. 3624 of 1986

(K. Ramaswamy, D. P. Wadhwa JJ)

03.04.1997

JUDGMENT

The controversy raised in this appeal is covered by the judgment of this Court in C. B. Gautam vs. Union of India (1992) 108 CTR 304 r/w (1993) 199 ITR 530 (SC) : TC 3PS.87, wherein it was held that :

"31. The recording of reasons which lead to the passing of the order is basically intended to serve a two-fold purpose :

(1) that the 'party aggrieved' in the proceeding before (sic-the Appropriate Authority), acquires knowledge of the reasons and in a proceeding before the High Court or the Supreme Court (since there is no right of appeal or revision), it has an opportunity to demonstrate that the reasons which persuaded the Authority to pass an order adverse to his interest were erroneous, irrational or irrelevant, and

(2) that the obligation to record reasons and convey the same to the party concerned operates as a deterrent against possible arbitrary action by the quasi-judicial or the executive authority invested with judicial powers . . .

42. We realise that if an order for compulsory purchase of the property is made hereafter the intending vendor will suffer to some extent by reason of the fact that he will get the purchase amount several years after the time he would have got it had the impugned order been held to be valid. But, on the other hand, however, he would have retained the possession of the property in question. Taking into account these factors and taking note of the fact that the immovable properties in urban areas have gone up steeply in value during the last few years, we direct that, in case an order for compulsory purchase is made, the Central Government shall pay to the intending seller the amount of the apparent consideration plus interest at 9 per cent per annum from the date the impugned order was made . . .

50. We, accordingly, clarify by this supplemental direction to be read as part of the judgment that, in respect of cases other than that of the petitioner - C. B. Gautam, the period of two months referred to in s. 269UD(1) shall be reckoned with reference to the date of disposal of each of such pending matters either before this Court or before the High Courts, as the case may be. Where, however, the stay orders inhibiting the authorities from taking further proceedings are vacated, the period referred to in the said s. 269UD(1) shall be reckoned with reference to the date of such vacating of the

stay orders. This clarification and further direction shall be supplemental to and be treated as parts of the main judgment."

2. Following the above ratio, this appeal is disposed of. No costs.