

3/10/01
GOVERNMENT OF INDIA

OFFICE OF THE APPROPRIATE AUTHORITY, INCOME-TAX DEPARTMENT
"Kendriya Sada", 4th Floor, 'A' Wing, 17th Main, 2nd Block,
Koramangala, Bangalore - 560034.

No. AA/ENG/CH.XXC/S.Court/2001-02 Dated: 22.6.2001.

To

2/10/01
The Inspector General of Registration
and Commercial Stamps, Kerala.

Through The Sub Registrar, Patten, Trivandrum.

Sir,

Sub: Registration of property by co-owners - Each share
being less than Rs. 20 lakhs - Implication of recent
Supreme Court Judgement - Communication -
regarding.

The Supreme Court in its recent judgement passed on
13.3.2001 (248 ITR 342) has held that the whole value of the
property which is subject matter of registration is to be
taken into consideration and not the individual share of
co-owners or tenants in common to arrive at a conclusion
whether the provisions of Chapter XXC of Income Tax Act is
applicable or not. In other words, unless the property is
physically divided between the co-owners and separate Khata
is given to each such division, the whole value of the
property is to be considered for the purpose of Chapter XXC
of I.T. Act, 1961.

In the decision it has been held as under:

"... It is of no consequence that the second and
third respondents owned the said immovable property as tenants-
in-common or that this is how they had shown their ownership
in their income tax returns. We are, therefore, of the
opinion that the High Court was in error in concluding that
what had been sold by the second and third respondents to the
first respondent was their equal share in the said immovable
property, that the respondents owned the property as tenants-
in-common and that, therefore, the provisions
of Chapter XX-C would not apply."

We should add that even if the agreement of transfer had been so drawn as to show the transfer of the equal shares of the second and third respondents in the said immovable property, ^{realistically} our conclusion would have been the same for, looked at realistically, it was the said immovable property which was the subject of the transfer.

The Registering authorities may kindly be instructed accordingly and to insist on an NOC from the Appropriate Authority, Income Tax Department, relating to the entire property before Registering.

Yours faithfully,

SA/-
(V.S. SREELEKHA),
Deputy Commissioner of Income tax (Hq),
C/o Appropriate Authority, Bangalore.

// True Copy //

Endorsement No. RR.3. 18394/2001.

Office of the Inspector General of
Registration, Kerala, Thiruvananthapuram,
Dated : 17.7.2001.

Copy communicated to All District Registrars.
You are directed to communicate the matter among the
Sub Registrars under your jurisdiction.

Susha Meda
FOR INSPECTOR GENERAL OF REGISTRATIONS.

T.S. : 25/7.