

(2000) 12 MAD CK 0089

**Madras High Court****Case No:** T.C. No's. 1087 and 1089 of 1988 (Reference No's. 849 to 851 of 1988)

Commissioner of Wealth-tax

APPELLANT

Vs

A.R. Krishnamurthy

RESPONDENT

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**Date of Decision:** Dec. 4, 2000**Citation:** (2001) 249 ITR 239**Hon'ble Judges:** R. Jayasimha Babu, J; K. Gnanaprakasam, J**Bench:** Division Bench**Advocate:** S. Ravikumar, for the Appellant; P.P.S. Janarthana Raja, for the Respondent

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**Judgement**

R. Jayasimha Babu, J.

The Tribunal has rightly held that the amount which the appellant was allowed to receive against the bank guarantee pending disposal of the appeal preferred by the State against the judgment of the High Court enhancing the compensation for the land compulsorily acquired from the assessee, cannot be regarded as part of the taxable income or the wealth of the assessee as the money cannot be said to belong to the assessee until the Supreme Court, if it does, affirms the decision of the High Court.

2. The Supreme Court in the case of [Commissioner of Income Tax, West Bengal-II, Calcutta Vs. Hindustan Housing and Land Development Trust Ltd.](#), held that the compensation which was in dispute in the superior court could not be treated as income accruing to the assessee during the previous year.

3. Counsel for the Revenue referred to the decision of the apex court in the case of CWT v. U. C. Mehatab (1998) 231 ITR 501 wherein it was held that the right to receive compensation constitutes an asset and the same has to be valued even when such valuation has neither been determined nor paid on the valuation date. That decision is not of any assistance to the Revenue as in this case, the amount of the compensation has been determined by the Land Acquisition Officer and unless the enhancement made thereafter by the court is upheld in any appeal, the appeal

having been preferred by the State, it cannot be said that the amount by which the High Court had enhanced the compensation is the amount payable to the assessee. It is only after the Supreme Court upholds the award made by the High Court that it can be said that the amount belongs to the assessee and forms part of his wealth.

4. The question referred to us is answered in favour of the assessee and against the Revenue.