(1990) 01 DEL CK 0030

In the Delhi High Court

Case No : Gift-tax Case No. 2 of 1989

Commissioner of Gift Tax — APPELLANT

Vs

Dr. (Kaviraj) Khajan Chand — RESPONDENT

Date of Decision : 11-01-1990

Acts Referred:

Citation : (1990) 88 CTR 233 : (1990) 182 ITR 469

Hon'ble Judges : C.L. Choudhary, J;B.N. Kirpal, J

Bench : Division Bench

Advocate : R.C. Pandey, for the Appellant; K.P. Bhatnagar, for the Respondent

Judgement

Kirpal, J.—The question involved in this case pertains to the valuation of a plot of land which was gifted by the respondent to this grandson. The Gift-tax Officer did not accept the contention of the assessed, namely, that the value should be Rs. 15,136, which was the consideration which the assessed had paid for it on January 30, 1976. The contention of the assessed was that, according to the terms of the lease deed, for a period of 10 years this property could not be transferred. The Gift-tax Officer did not accept this contention and valued the said land at Rs. 3,37,792. An appeal was filed, but the same was dismissed by the Appellate Assistant Commissioner. The Tribunal, however, while following the decision of this court in Commissioner of Wealth Tax, Delhi-I Vs. Smt. Promila Bali, , came to the conclusion that the value of the gift was to be the price for the land.

2. It is contended by Shri Pandey that this conclusion of the Tribunal is uncalled for because, according to section 4 of the Gift-tax Act, the market value of the property had to be determined. In our opinion, the question as to what has to be value of the gift is a pure question of fact. The assessed had contended that the value should be Rs. 15,140, whereas the Gift-tax Officer had concluded that the value of the gift should be Rs. 3,37,792. The Tribunal took note of the fact that there was a restriction placed on the transfer of the land and, in fact, for the first ten year, there was a complete prohibition of transfer by sale and it was because

of that reason that the Tribunal has adopted the value of Rs. 15,136 instead of Rs. 3,37,792 adopted by the Gift-tax Officer. In our opinion, this conclusion of the Income Tax Appellate Tribunal is a conclusion of fact and no question of law arises.

3. Dismissed. No. costs.

