(2003) 11 MAD CK 0117

In the Madras High Court

Case No : Tax Case No. 150 of 2000

Commissioner of Gift Tax APPELLANT

Vs

Sree Visalam Chit Fund Ltd. RESPONDENT

Date of Decision : 12-11-2003

Acts Referred:
Gift Tax Act, 1958 — Section 4(1)

Citation : (2004) 188 CTR 183

Hon'ble Judges : S.R. Singharavelu, J;R. Jayasimha Babu, J

Bench : Division Bench

Advocate : J. Naresh Kumar, for the Appellant; P.P.S. Janardhana Raja, for Subbaraya Aiyar, for the Respondent

Judgement

R. Jayasimha Babu, J.—The question referred is:

"Whether, on the facts and in the circumstances of the case, the Tribunal is correct in law in holding that the assessment of deemed gift u/s 4(1)(a) is not tenable?"

The assessment year is 1975-76.

2. The AO recorded the value of the property owned by the assessee which was sold to the sister-concern as having been undervalued and recorded the difference between the market value and the value at which the sale has been effected as amounting to a deemed gift.

3. Counsel for the Revenue (sic-assessee) submits that the question raised in this case, having regard to the law laid down by the Supreme Court in the case of Reva Investment Pvt. Ltd. Vs. Commissioner of Gift Tax, Gujarat II, , is required to be answered in favour of the assessee.

4. It has been held in the case of Reva Investment (P) Ltd. (supra) that Section 4(1)(a) of the GT Act has to be construed in a broad commercial sense and not in a narrow sense. If the transaction involves transfer of certain property in lieu

of certain other property received, then the process of evaluation of the two items of property should be similar and if, on such evaluation, it is found that there is appreciable difference between the values of the properties, then the transaction will be taken as a "deemed gift". It is to be found that the transaction was on inadequate consideration and the parties deliberately showed the valuation of the two properties as the same to effect (evade) tax. Such a conclusion cannot be drawn merely because according to the AO there is some difference between the valuation of the property transferred and the consideration received.

5. In that case, the Supreme Court referred with approval to the decision of this Court in the case of Commissioner of Gift-tax Vs. Indo Traders and Agencies (Madras) P. Ltd., . The Tribunal here has followed that decision.

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