

(2002) 08 DEL CK 0152

In the Delhi High Court

Case No : IT Reference No. 2 of 1986 8 August 2002

Commissioner of Income Tax

APPELLANT

Vs

M. Mathur

RESPONDENT

Date of Decision : 08-08-2002

Acts Referred:

Citation : (2002) 124 TAXMAN 751

Hon'ble Judges : Sharda Aggarwal, J;Ms. Sharda Aggarwal, J;D.K. Jain, J

Bench : Full Bench

Advocate : R.D. Jolly and Ajay Jha, for the Revenue, for the Appellant;

Judgement

At the instance of the assessed (sic), the Tribunal, Delhi Bench "E", Delhi has referred u/s 256(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") the following question, arising out of IT Appeal No. 3198 (Delhi) of 1984 for the assessment year 1981-82, for our opinion.

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that income from the flats for which there is no registered deed in favor of the assessed is assessable under the head "Income from property" and not "Income from other sources" ?"

2. Since in our opinion answer to the question stands concluded by the decision of the Supreme Court in Commissioner of Income Tax, Bombay etc. Vs. M/s. Podar Cement Pvt. Ltd. etc., , it is not necessary to state the facts. In the said decision, it has been held that for the purpose of section 22 of the Act, the requirement of registration of sale deed is not warranted. It is observed that having regard to the ground realities and the object of the Act, namely, to tax the income, "owner" is a person who is entitled to receive income from the property in his own right. In other words, what has been held is that if the purchaser has been put in possession of the property on his paying the full consideration, he can be treated as "owner" for the purpose of section 22 of the Act, even though no registered document as required u/s 54 of the Transfer of

Property Act, 1882 has been executed in his favor.

3. In view of the said authoritative pronouncement, question referred is answered in the affirmative, i.e., in favor of the assessed and against the revenue.

4. The reference stands disposed of accordingly.