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(1990) 01 AHC CK 0054

In the Allahabad High Court

Case No : Income-tax Application No. 248 of 1989

Commissioner of Income Tax APPELLANT

Vs

Raj Kumar RESPONDENT

Date of Decision : 02-01-1990

Acts Referred:
Income Tax Act, 1961 — Section 256

Citation : (1990) 182 ITR 436

Hon'ble Judges : R.R. Misra, J;R.M. Sahai, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.R. Misra, J.—The assessee along with his brother had purchased a leasehold plot at Ghaziabad and constructed a building thereon. The estimated investment in this property, according to the assessee, was to the extent of Rs. 2,86,836. The Department did not agree with the same and made its own estimate of construction. The Income Tax Appellate Tribunal, however, on a consideration of the rival submissions, estimated the cost of construction at rupees three lakhs and disagreed with the figure of cost of construction of rupees five lakhs and odd as estimated by the Commissioner of Income Tax (Appeals). Aggrieved, the Department filed an application for reference before the Income Tax Appellate Tribunal which was rejected. Consequently, the present application u/s 256(2) of the Income Tax Act has been moved by the Commissioner of Income- tax.

2. We have heard learned standing counsel. From a perusal of the order passed by the Income Tax Appellate Tribunal, we find that, while fixing the cost of construction, it has taken into consideration various factors, viz., the rates to be applied for the estimate of cost of construction should be U.P. P.W.D. rates and not the Central P.W.D. rates and that, on the materials before it, the Tribunal held that the Commissioner of Income Tax (Appeals) was not justified at all in considering that the structure was a cross between R.C.C. structure and load-bearing structure. Thereafter, the Tribunal has considered the report of the

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valuer. Thus, in our opinion, the cost of construction that has been arrived at by the Income Tax Appellate Tribunal in the present case is wholly based on relevant considerations and appraisal of the materials on record. In our opinion, no statable question of law arises from the order of the Income Tax Appellate Tribunal.

3. In the result, this application fails and is dismissed with costs which are assessed at Rs. 125 (Rupees one hundred and twenty-five).

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