(2003) 02 DEL CK 0096

In the Delhi High Court

Case No : IT Ref. No. 169 of 1987 & IT Reference No. 169 of 1987 13 February 2003

Commissioner of Income Tax APPELLANT

Vs

Seth Sudhir Kumar Modi RESPONDENT

Date of Decision : 13-02-2003

Acts Referred:

Citation : (2003) 130 TAXMAN 267

Hon'ble Judges : Madan B. Lokur, J;D.K Jain, J

Bench : Full Bench

Advocate : Sanjiv Khanna and Subhash C. Sharma, for the Revenue Santosh K. Aggarwal and Vinay Vaish, for the assessee, for the Appellant;

Judgement

D.K. Jain, J.

At the instance of revenue, the Income Tax Appellate Tribunal, New Delhi has referred u/s 256(1) of the Income Tax Act, 1961, the following question for our opinion :

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the determination of the perquisite value of the accommodation, furniture, electricity and water at Rs. 5,784."

2. The reference pertains to the assessment year 1981-82. The issue is with respect to the determination of the value of perquisite provided to the respondent-assessed by his employer by way of rent-free accommodation, furniture, electricity and water.

From the order of the Tribunal we find that though the Tribunal has referred to its earlier orders passed in the cases of the assessed and other Directors of the same company, but in the penultimate paragraph of its order, except for relying on the said order, it has not recorded any reason for deciding the issue in favor of the assessed.

3. Similar issue had come up for our consideration in the cases of some of the assessed''s belonging to the same group. In CIT v. Mahesh Kumar Modi (IT Reference No. 6 of 1984, dated 6-2-2003), relying on an earlier decision in Commissioner of Income Tax Vs. M.K. Modi, , wherein it was held that for determination of the market value of the perquisite provided to the assessed by way of rent-free accommodation, basis had to be the standard rent fixed by the Rent Controller in respect of similar accommodation by another person u/s 9 of the UP Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, we have affirmed the view taken by the Tribunal on both the issues. Following the said decision, we answer the question referred in the affirmative, i.e. in favor of the assessec and against the revenue.

4. The reference stands disposed of with no order as to costs.

