(1990) 01 DEL CK 0022

In the Delhi High Court

Case No : Income Tax C. No. 5 of 1989 with I.T.C. No''s. 6, 7, 8 and 100 of 1989

Commissioner of Income Tax APPELLANT

Vs

Sita Ram Arvind Kumar RESPONDENT

Date of Decision : 16-01-1990

Acts Referred:

Citation : (1990) 82 CTR 24 : (1990) 183 ITR 431 : (1990) 52 TAXMAN 439

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

Bench : Division Bench

Advocate : D.K. Jain, Adv R. Santhanam, for the Appellant;

Judgement

B.N. Kirpal, J.—The petitioner has proposed the following question of law to this court for being referred to it by the Tribunal:

"Whether the Income Tax Appellate Tribunal was correct in law and on the facts of the case in confirming the view of the Appellate Assistant Commissioner that the annual letting value of the assessed''s share in the property at 7/184, Swarup Nagar, Kanpur, is to be taken at Rs. 2,400 as shown by the assessed without considering the fact that the annual letting value was determined by the Income Tax Officer with reference to the value for purposes of section 9(2A) of the Uttar Pradesh Urban Building (Regulation, Letting, Rent and Eviction) Act, 1972?"

2. The question involves the determination of the annual letting value of property No. 7/184, Swarup Nagar, Kanpur. The Income Tax Officer sought to assessed the value of the said house at Rs. 23,140. An appeal was filed against this and the Appellate Assistant Commissioner came to the conclusion that the correct method of assessing the annual letting value was to determine the standard rent under the provisions of the Uttar Pradesh Urban Building (Regulation, Letting, Rent and Eviction) Act, 1972. The appellate authority came to the conclusion that section 3(k) of the said Act applied and reading the said provision with section 3(f), the annual letting value had to be the value as assessed or determined by

the Nagar Mahapalika. It was found as a fact that the Kanpur Nagar Mahapalika had, in respect of the property in question, determined the annual letting value at Rs. 12,000. As the house was self-occupied, the annual letting value to be added in the hands of the assessed had to be one-fifth and this was worked out at Rs. 2,400. Appeal against this was unsuccessful before the Income Tax Appellate Tribunal and, thereafter, when the application u/s 256(1) was dismissed, the present application was filed.

3. The Supreme Court in the case of Mrs. Shiela Kaushish Vs. Commissioner of Income Tax, Delhi, has now authoritatively held that the annual letting value has to be determined according to the principles laid down by the respective Rent Restriction Act. In the instant case, the Kanpur Nagar Mahapalika had determined the rent of the property at Rs. 12,000. Therefore, one-fifth of the same came to Rs. 2,400. In view of the decision in Mrs. Shiela Kaushish Vs. Commissioner of Income Tax, Delhi, , the question proposed has now become academic.

4. The petition is, accordingly, dismissed. No costs.