(2006) 09 DEL CK 0127

In the Delhi High Court

Commissioner of Income Tax — APPELLANT

Vs

S.K. Construction Co. — RESPONDENT

Date of Decision : 14-09-2006

Acts Referred:

Citation : (2008) 167 TAXMAN 171

Hon'ble Judges : Vipin Sanghi, J;Madan B. Lokur, J

Bench : Division Bench

Judgement

1. The revenue is aggrieved by an order dated 23-12-2005 passed by the Income Tax Appellate Tribunal, Delhi Bench ''F'' in ITA No. 3524/Delhi/ 2000 relevant for the assessment year 1997-98.

2. The assessed had purchased roof rights over the ground floor of a property in Gulmohar Park, New Delhi. He constructed flats on the first floor and the second floor of the property and sold them.

3. For the purposes of assessment, the assessing officer took the report of the departmental Valuation Officer into consideration and worked out the value of the flats at a price much higher than what was indicated by the assessed on the basis of the sale deeds.

4. On this basis, the assessing officer made an addition of an unexplained investment u/s 69 of the Income Tax Act, 1961. The assessed preferred an appeal before the Commissioner (Appeals) who allowed the appeal.

5. The revenue then approach the Tribunal which dismissed its appeal.

6. We find from the record that the Commissioner (Appeals) and the Tribunal have taken into consideration the fact that the assessing officer had not been able to show from any cogent material how it could be said that the assessed had received anything over and above the sale price declared by him. Moreover, the assessed had filed a report of an approved valuer, which was based on the land rates fixed by the L&DO. The assessing officer did not take this report into

consideration nor did he discard it for any valid reason but merely relied upon the report of the departmental Valuation Officer. The Commissioner (Appeals) and the Tribunal were of the view that merely placing reliance on the report of the departmental Valuation Officer was not enough and that there must be something more to show why the report of the approved valuer is not correct and that the assessed had received something more what had been declared by him in the sale deed.

7. We are of the view that the Commissioner (Appeals) and the Tribunal have not committed any error. In our opinion, no substantial question of law arises for consideration.

Dismissed.