(2001) 07 DEL CK 0120

In the Delhi High Court

Case No : Income-tax Reference No. 138 of 1979

Commissioner of Income Tax APPELLANT

Vs

Smt. Sushila Devi RESPONDENT

Date of Decision : 16-07-2001

Acts Referred:
Income Tax Act, 1961 — Section 52, 52(2)

Citation : (2001) 171 CTR 517 : (2002) 256 ITR 179 : (2001) 119 TAXMAN 464

Hon'ble Judges : Dr. Arijit Pasayat, C.J;D.K. Jain, J

Bench : Division Bench

Advocate : R.C. Pandey and Prem Lata Bansal, for the Appellant; Sonu Bhatnagar, for the Respondent

Judgement

Arijit Pasayat, C.J.—Heard.

2. At the instance of the Revenue, the following question has been referred for the opinion of this court by the Income Tax Appellate Tribunal, Delhi Bench "C" (in short "the Tribunal"), u/s 256(1) of the Income Tax Act, 1961 (in short "the Act") :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that Section 52(2) of the Income Tax Act, 1961, was inapplicable to the sales of two properties for the purpose of computing capital gains on the basis of the market value of the properties as on the date of transfer ?"

3. The dispute relates to the assessment year 1971-72. We need not go into the factual aspects in detail in view of the following finding recorded by the Tribunal :

"It is not the case of the Revenue, that the assessed had received an amount of consideration over and above what was stated in the registered sale deeds. There is also no dispute that the sale transactions were effected to absolute strangers."

4. In view of this finding, the ratio of the apex court''s decision in K.P. Varghese Vs. Income Tax Officer, Ernakulam and Another, has full application. Accordingly, the question is answered in the affirmative, in favor of the assessed and against the Revenue.

5. The reference stands disposed of.

