(2008) 07 DEL CK 0122

In the Delhi High Court

Case No : GT Appeal No. 5 of 2007

Gift Tax Commissioner APPELLANT

Vs

Sultan Singh RESPONDENT

Date of Decision : 23-07-2008

Acts Referred:

Citation : (2008) 07 DEL CK 0122

Hon'ble Judges : Rajiv Shakdher, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Prem Lata Bansal, for the Appellant; Vineet Bhatia, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal pertains to the assessment year 1996-97. The facts are that the assessee sold the house No. 76, Block C-1, Wazirpur Residential Scheme, Phase-II, Delhi, for a sum of Rs. 8.00 lacs to one Smt. Jai Devi on 25-9-1995. According to the revenue, the fair market value of the same on the date of the sale was Rs. 22,60,000 and consequently, the Assessing Officer took the difference between such value which had been determined by the Valuation Officer and value shown by the assessee as a deemed gift in lire hands of the assessee. This conclusion of the Assessing Officer was upheld by the Commissioner of Gift Tax (Appeals). However, the Income Tax Appellate Tribunal has agreed with the assessee and set aside the orders passed by the authorities below. The conclusion arrived at by the Income Tax Appellate Tribunal is based on the consideration that as regards the deemed gift, the returning of the Assessing Officer must return a finding as to the inadequacy of consideration which is a pre-condition for invoking Section 4(1)(a) of the Gift-tax Act, 1958. The tribunal concluded that there was no material to show that there was inadequacy of consideration. Consequently, the finding with regard to the deemed gift was set aside. The tribunal also noted that the registered / approved valuer''s report had also not been discussed by the authorities below and was

summarily rejected without any reason.

2. We are of the view that this is a finding which is a pure finding of fact. No substantial question of law arises for our consideration. This appeal is dismissed.

