(2004) 01 DEL CK 0095

In the Delhi High Court

Case No : Writ Petition No. 395 of 1987

Master Vincent Cleetus and Others — APPELLANT

Vs

Union of India (UOI) and Others — RESPONDENT

Date of Decision : 15-01-2004

Acts Referred:

Income Tax Act, 1961 — Section 269A, 269AB, 269UD

Citation : (2004) 191 CTR 416 : (2005) 276 ITR 304 : (2005) 142 TAXMAN 515

Hon'ble Judges : B.C. Patel, C.J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : M.S. Syali, Satish Khosla and Manu K. Giri, for the Appellant; R.D. Jolly, for the Respondent

Final Decision : Allowed

Judgement

B.C. Patel, C.J.—In WP(C) No. 395 of 1987, the petitioner was allotted a flat on the first floor admeasuring 1814.92 sq. ft. for a total consideration of Rs. 12,70,744. There was an agreement executed in this behalf on 11th June, 1986. At the relevant time, Chapter XX-A of the IT Act, 1961 (hereinafter referred to as ''the said Act''), was applicable. It is also required to be noted at this stage that Chapter XX-C was made effective from 1st Oct., 1986 vide notification dt. 7th Aug., 1987, In the instant case, the agreement was executed on 11th June, 1986. ''Form 37-I'' under Rule 48L(2) of the IT Rules, 1962, was furnished on 15th Oct., 1986. So far as the aforesaid facts are concerned, there is no dispute before us and, Therefore, the question in this writ petition is whether Chapter XX-C would be applicable or Chapter XX-A would be applicable. Suffice it to say that the agreement was executed on 11th, June, 1986 and Chapter XX-C was made applicable w.e.f. 1st Oct., 1986. And, Therefore, in view of the decision of this Court in the case of Bhatia Apartments (Pvt.) Ltd. Vs. Union of India and Others, , filing of Form No. 37-I is not relevant to decide the date which attracted the provisions of Chapter XX-C of the said Act. The Division Bench, considering various aspects of the matter, held that Chapter XX-A of the Act would be applicable in such a situation and held that application of Chapter XX-C is bad in law. It was also held by the Division Bench that the act of submitting the application in Form 37-I of the Act would be inconsequential. In the other petition [i.e., WP(C) 420/1987] only the description of property is different but the date of execution of the agreement and filing of Form 37-I is the same. The issues are identical.

2. Learned counsel for the Revenue, in view of the aforesaid decision, was not in a position to submit anything to the contrary. In view of this, the writ petitions are required to be allowed" and are accordingly allowed with no orders as to costs.

