

Cit Vs. Shashi Kumar Agrawal

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Court : Allahabad

Decided On : May-13-2003

Reported in : [2003]131TAXMAN823(All)

Appeal No. : IT Reference No. 222 of 1983 13 May 2003

Appellant : Cit

Respondent : Shashi Kumar Agrawal

Advocate for Def. : Shri. Pankaj Mittal

Advocate for Pet/Ap. : Ashok Kumar, *for the Revenue* Pankaj Mittal, *for the Assessee*

Judgement :

ORDER

Heard Shri Ashok Kumar, learned counsel for the applicant; and Shri Pankaj Mittal, learned counsel for the respondent-assessee.

2. The following question of law has been referred to this court for opinion :

'Whether, on the facts and in the circumstances of the case, the profit arising from the sale of plots should be taxed as profit from an adventure in the nature of trade or the same should be taxed under the head 'Capital gains'?''

3. Similar question was considered in CIT v. Shashi Kumar Agrawal : [1992]195ITR767(All) wherein it has been held that the profit from the sale of land after plotting it out to secure better price cannot be taxed as profit from an adventure in the nature of trade.

4. In view of the above decision, we answer the question referred to above in negative, i.e., it cannot be taxed as profit from an adventure in the nature of trade.

5. The Reference is accordingly disposed of. The parties shall bear their own costs.

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