**Cit Meerut Vs. Dharmendra Kumar**

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**SooperKanoon Citation** : sooperkanoon.com/495665

**Court** : Allahabad

**Decided On :** Mar-11-2005

**Reported in** : [2006]154TAXMAN170(All)

**Appeal No.** : IT Reference No. 62 of 1993 11 March 2005

**Appellant** : Cit Meerut

**Respondent** : Dharmendra Kumar

**Advocate for Pet/Ap.** : A.N. Mahajan *for the Revenue* M. Manglik *for the Assessee.*

**Judgement** :

## ORDER

The Income Tax Appellate Tribunal, Delhi, has referred the following question of law under section 256(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for opinion to this court:

'Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal had any material to confirm the order of the Appellate Assistant Commissioner deleting the addition of Rs. 20,588 made by the Income Tax Officer as assessee's income from undisclosed sources ?'

2. Briefly stated the facts giving rise to the present reference are as follows:

The reference relates to the assessment year 1982-83.

3. The respondent-assessee has been assessed to the income-tax in the status of an individual. During the relevant accounting period, the respondent-assessee had purchased a plot of land measuring 139.58 sq. mts. situate in Mansarover Colony, Meerut from Shri S.C. Goel and Mrs. Bimla Goel. A search was conducted by the Income-tax department at the instance of said vendors. According to the sale deeds executed by the said vendors in favour of the respondent-assessee, the land was sold at the rate of Rs. 5 per sq. mt. However, a sum of Rs. 20,588 has been paid over to the said vendors over and above the price shown in the sale deed being on-money. The amount of Rs. 20,588 was added to the respondent's income as income from undisclosed sources. It may be mentioned here that before the assessing officer Mr. S.C. Goel has been cross-examined who withstood his earlier statement regarding the giving of on-money by the respondent-assessee. Feeling aggrieved the respondent-assessee preferred an appeal before the Appellate Assistant Commissioner who deleted the addition on the sole ground that the amount could not be added merely on the statement of Shri S.C. Goel without any independent evidence. The Appellate Assistant Commissioner had relied upon the decision in the case of Smt. Uma Rastogi being Appeal No. 67/CC/MRT/87-88, dated 5-1-1988. The revenue, feeling aggrieved, preferred appeal before the Tribunal. The Tribunal has upheld the order of the Appellate Assistant Commissioner by relying upon the order in the case of Smt. Uma Rastogi.

4. We have heard Shri A.N. Mahaj an, the learned standing counsel for the revenue and Shri M. Manglik, learned counsel appearing for the respondent-assessee. This court in CIT v. Smt. Uma Rastogi (IT Reference No. 1 of 1993, dated 10-3-2005) has held that the Tribunal was not justified in deleting the addition on account of on-money. The Appellate Assistant Commissioner and the Tribunal have merely followed their earlier orders in the case of Smt. Uma Rastogi (supra), which have not been approved by this court in the aforesaid Income-tax Reference.

5. Respectfully following the aforesaid decision, we answer the question referred to us in negative, i.e., in favour of the revenue and against the assessee. There shall be no order as to costs.