Cit Vs. Dr. S.K. Kishore

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SooperKanoon Citation : sooperkanoon.com/710689

Court : Delhi

Decided On : Aug-08-2002

Reported in : [2002]124TAXMAN732(Delhi)

Appeal No. : IT Reference No. 353 of 1986 8 August 2002

Appellant : Cit

Respondent : Dr. S.K. Kishore

Advocate for Pet/Ap. : Sanjeev Khanna and; Ms. Rashmi Chopra, for the Revenu

Judgement :

At the instance of the assessed, the Tribunal, Delhi Bench 'B', Delhi has referred under section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') the following question, arising out of IT Appeal Nos. 4438 and 4439 (Delhi) of 1985 for the assessment years 1981-82 and 1982-83, for our opinion.

'Whether, on the facts and circumstances of the case, the Tribunal was correct in law in holding that rental income from flat in a multi-storeyed building is assessable in the hands of the assessed under the head 'Income from house property'?'

2. Since in our opinion answer to the question stands concluded by the decision of the Supreme Court in CIT v. Podar Cement (P) Ltd. : [1997]226ITR625(SC) , it is not necessary to state the facts. In the said decision, it has been held that for the

purpose of section 22 of the Act, the requirement of registration of sale deed is not warranted. It is observed that having regard to the ground realities and the object of the Act, namely, to tax the income, 'owner' is a person who is entitled to receive income from the property in his own right. In other words, what has been held is that if the purchaser has been put in possession of the property on his paying the full consideration, he can be treated as 'owner' for the purpose of section 22, even though no registered document as required under section 54 of the Transfer of Property Act, 1882 has been executed in his favor.

3. In view of the said authoritative pronouncement, question referred is answered in the affirmative, i.e., in favor of the assessed and against the revenue.

4. The reference stands disposed of accordingly.