

Court No. - 37

Case :- INCOME TAX APPEAL No. - 124 of 2010

Petitioner :- The Commissioner Of Income Tax And Another

Respondent :- Smt.Sushila Devi Gupta

Petitioner Counsel :- A.N.Mahajan/S.C.

Respondent Counsel :- Rahul Agrawal

Hon'ble Yatindra Singh,J.

Hon'ble Prakash Krishna,J.

1. The assessee in her return had shown income of Rs.30,75,759/- as Long Term Capital Gain for the assessment year 2003-04. However, the assessing officer vide his order dated 9th January, 2006 treated the sale transaction to be sham and added the entire sale price as income under Section 68 of the Income Tax Act.
2. Aggrieved by the order dated 9th January, 2006, the assessee filed an appeal before the Commissioner of Income Tax (Appeals). It was allowed in part on 28.04.2008. The Commissioner (Appeals) deleted the aforesaid addition.
3. The Income Tax Department (the Department) filed an appeal against the same before the Income Tax Appellate Tribunal, Agra Bench, Agra (the Tribunal). It was dismissed by order dated 31st August, 2009. Hence the present appeal.
4. We have heard counsel for the parties.
5. The Commissioner had deleted the addition after considering that the transaction of sale of share was conducted through the borker, who had confirmed the sale and then the transaction was done through Calcutta Stock Exchange. This finding was confirmed by the Tribunal. It is finding of fact. There is no illegality in the same.
6. The appeal has no merit. It is dismissed.

Order Date :- 3.12.2010

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