**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

211 **ITR-1-2006**
Date of decision:07.02.2023

SUSHIL KUMAR JAIN .... Appellant

Versus

COMMISSIONER OF INCOME TAX AMRITSAR .... Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Akshay Bhan, Sr. Advocate with Mr. Shantanu Bansal, Advocate for the appellant.

Mr. Saurabh Kapoor, Advocate for the respondent.

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RITU BAHRI, J. (oral)

This court vide order dated 05.08.2004, had sent a reference to the Tribunal on the following question relating to the assessment year 1982-83.

> "Whether on the facts and circumstances of the case, the tribunal was right in holding that the provision of Section 52(2) of the Income Tax Act, 1961 are automatically attracted to a case where the difference in the market price and the apparent consideration was more than 15% per cent?"

This reference had been answered by the Tribunal vide order dated 09.07.1992. The Tribunal has upheld the assessment order of the First Appellate Authority. The reference has been examined, keeping in view that the assessee had sold a plot in Basant Avenue, Amritsar @ Rs.135/- per square yards as on **25.06.1981**. The Assessing Officer as per assessment order dated 29.03.2005(at page 5 of the paperbook), had examined the three registered sale deeds, details of which are given below:-

Regd. Deed No.885 Dt.10/4/81	Kothi No.412, area 203 sq. yards Rate Rs.350/- per sq. yards vide V.O's Report No.1333 dt.11/83
Regd. Deed No.2553	112 Basant Avenue Area 144

Dt.24/11/80	Sq. yards rate Rs.300/- pr. Sq. yards vide V.O's report dated 4/7/81 No.1238
Regd. Deed No.10758 Dt.7/8/81	Plot No.530 area 790.7 sq. yards Rate 280/- per sq. yards vide V.O's report No.1450 dt.19/3/82
Regd. Deed No.1802 Dt.8/9/08	186-Basant Avenue, area 650 sq. yards rate Rs.200/- per sq. yards vide V.O's Report dated 4/81 No.1161

Apart from these registered sale deeds, they had also taken into account the sale transaction made by Improvement Trust, Amritsar of a plot @ Rs. 400/- per sq. yards in March 1980. The assessing officer has taken into account the registered sale deeds of 1980-81 and has assessed the market value of the property @ Rs.300/- per sq. yards. This assessment has been dealt correctly as the appellant is not disputing the registered sale deeds. Since, the price of the registered sale deeds is vary from Rs.200/ per sq. yards to 280 sq. yards and Rs.200/- sq. yards, so the average of Rs.200/- per sq. yards has rightly been taken. Even as per the judgment of the Supreme Court in case bearing No. Civil Appeal No.412(NT) of 1973 titled as **K.P Varghese vs. Income Tax Officer, Ernakulam and Others**, to invoke the condition of Section 52(2), the object is to see whether the sale consideration was an honest and bona fide sale transaction.

In the present case, this aspect has been rightly considered by the Authority that the registered sale deeds reflected the average sale price of Rs.300/- per sq. yards and no merit in this reference.

Dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

07.02.2023
Jyoti-IV

Whether speaking/reasoned: Yes/No.
Whether reportable : Yes/No