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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 458/2024**

**PR. COMMISSIONER OF INCOME TAX,
DELHI.**

....Appellant

Through: Mr. Gaurav Gupta, SSC with
Mr. Shivendra Singh and Mr.
Yojit Pareek, JSCs.

versus

KRISHAN KUMAR

.....Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **23.08.2024**

CM APPLs. 48400/2024 (118 days delay in filing), 48401/2024 (184 days delay in refilling)

Bearing in mind the disclosures made in these applications,
delay in filing and refilling of appeal is condoned.

Applications stand disposed of.

ITA 458/2024

1. The Principal Commissioner seeks to question the judgment handed down by the **Income Tax Appellate Tribunal**¹ dated 27 April 2023 and posits the following questions for our consideration:-

“2.1 Whether, in facts and circumstances of the case, the Tribunal was right in upholding that receipt of money from ‘Relative’, as defined under clause (e) of the proviso to section 56(2)(vi) of the Act, would not be subject to tax, even without satisfying conditions of section 56(2)(vi) of the Act, i.e., receipt being ‘without any consideration’?

2.2 Whether the Tribunal is right in upholding contrary findings in

¹ Tribunal



the order of CIT(A), i.e., the receipt of money from ‘Relative’ would not be taxable under section 56(2)(vi) of the Act, and also observing that ‘money was received with attached liability to pay (later)’, which establishes that said money was not received ‘without consideration’?

2.3 Whether the Ld. Tribunal is right in upholding the order of CIT(A) that various transactions of receipts and payments of money by the Assessee, would be aggregated and only net amount can be subject to tax, even though the Assessee failed to offer any explanation or supporting documents to demonstrate purpose, utilisation, and genuineness of such transactions and creditworthiness of such lender?”

2. The solitary issue which appears to arise is with respect to the scope and ambit of Section 56(2)(vi)(e) of the **Income Tax Act, 1961**².

3. Undisputedly, and as the Tribunal has found, the loans had been extended by the brother-in-law of the assessee. It is in the aforesaid backdrop that the **Commissioner of Income Tax (Appeals)**³ had observed that the transactions constituted a mere receipt of payment between two relatives. This view has come to be affirmed by the Tribunal, as would be evident from a reading of paragraphs 8 and 9 of the impugned order and which are reproduced hereinbelow:-

“8. On perusal of the order of the CIT(A), it is noticed that the banking transactions have been carried out between the assessee and Shri Nagendra who happens to be brother-in-law of the assessee. It is further noticed that the receipt by banking channel from Shri Nagendra has been settled by the assessee in the subsequent years. The CIT(A) observed that the transactions are simple receipt and payment transactions between two relatives and has no connection with any property transaction.

9. We find that the CIT(A) has examined the issue threadbare and has given his objective considerations to the facts in issue. In the absence of any material on record contrary to the version of the assessed, the CIT(A) has given relief in accordance with law. We see no error in the findings given by the CIT(A). We thus decline to interfere therewith.”

4. In view of the aforesaid, we find that the instant appeal fails to

² Act

³ CIT(A)



raise any substantial question of law. It shall accordingly stand dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

AUGUST 23, 2024/vp