



HIGH COURT OF DELHI

ITR Nos. 184 & 193 of 1981

Date of Decision : January 8, 2001

The Commissioner of Income Tax, Delhi - III, New Delhi.....Petitioner
through : Shri R.C. Pandey with
 Shri Ajay Jha,
 Advocates.

- versus -

Shri Rajinder Kumar Gupta, 20, Barakhamba Road, New Delhi.....Respondent
through : Nemo

Coram

THE HON'BLE Mr. JUSTICE ARIJIT PASAYAT, CHIEF JUSTICE.
THE HON'BLE Mr. JUSTICE D.K. JAIN.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?

ARIJIT PASAYAT, C.J. (Oral)

At the instance of revenue, following question has been referred for opinion of this Court by the Income-tax Appellate Tribunal, Delhi Bench 'B', Delhi (in short, the 'Tribunal') under Section 256(1) of the Income Tax Act, 1961 (in short, the 'Act') :-

"Whether on the facts and in the circumstances of the case, the Tribunal was legally justified in holding that there was no extinguishment of the assessee's right in the property within the meaning of Section 2 (47) attracting capital gains under Section 45?"



2. We have heard learned counsel for the revenue. There is no appearance on behalf of the assessee in spite of notice.
3. We need not to go into the factual questions in detail as an identical question was dealt with by us in the case of *The Commissioner of Income Tax v. Smt. Angira Devi* in *ITR No. 201 of 1980* decided on *07.12.2000*.
4. A similar question was answered in favour of the assessee and against the revenue. Following reasons indicated therein, we answer the question in the affirmative, in favour of the assessee and against the revenue.
5. These references are accordingly disposed of.

January 8, 2001
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CHIEF JUSTICE


D.K. JAIN, J.